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of
WITNESSES

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1 Monday, 28 April 1947

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3
4 INTERNATIONAL MILITARY TRIBUNAL
5 FOR THE FAR EAST
6 Court House of the Tribunal
7 War Ministry Building
8 Tokyo, Japan

9 The Tribunal met, pursuant to adjournment,
10 at 0930.

11 - - -

12 Appearances:

13 For the Tribunal, same as before.

14 For the Prosecution Section, same as before.

15 For the Defense Section, same as before.

16 - - -

17 (English to Japanese and Japanese
18 to English interpretation was made by the
19 Language Section, IMTFE.)
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now in session.

3 THE PRESIDENT: All the accused are present
4 except TOGO and HIRANUMA, who the prison surgeon of
5 Sugamo certifies are unable to attend the trial today.
6 They are represented by counsel. The certificate will
7 be recorded and filed.

8 DR. KANZAKI: Counsel KANZAKI.

9 With respect to the defense documents tendered
10 to the Court on Friday there were among them originals
11 in English and I should like to make an explanation
12 on this matter.

13 Foreign Office documents and papers were
14 originally prepared in Japanese. It was, however,
15 customary for the Foreign Office to prepare these also
16 in English and French whenever they were made for
17 release -- outside release. The Foreign Office pre-
18 pared these documents and releases in Japanese, French
19 and English in order to avoid any translation errors
20 with respect to those documents which were telegraphed
21 or communicated to points outside of Japan and especial-
22 ly for announcement in the foreign press.

23 The reason why the defense submitted the
24 English original into evidence at this Tribunal is
25 because the Japanese documents had been lost. Because

1 only the English texts remained in the files of the
2 Foreign Office the Foreign Office made certificates
3 only for the English texts and did not issue certif-
4 icates with regard to Japanese documents. They do
5 not issue certificates for Japanese documents; that
6 is to say, the Foreign Office issued certificates
7 only for documents in the English language because
8 only documents in the English were in the files of
9 the Foreign Office.

10 THE PRESIDENT: We have heard enough. The
11 fact remains they are self-serving statements in the
12 nature of propaganda or at all events were made for
13 publication to other countries. We told you we would
14 not allow you to prove the phases in that way by such
15 statements. In proving the phases you are proving
16 the facts of the particular case -- phase; but individ-
17 ual accused may base their defense on those matters
18 so far as they are relevant and material to such a
19 defense, that is to say, the defense of honest and
20 reasonable but mistaken belief, as to the facts, of
21 course, not as to the law.

22 Brigadier Quilliam.

23 BRIGADIER QUILLIAM: May it please the
24 Tribunal, before my friend, Mr. Cunningham, proceeds
25 with the reading from the Lytton Report it is desired

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20 reasonable but mistaken belief, as to the facts, of
21 course, not as to the law.

22 Brigadier Quilliam.

23 BRIGADIER QUILLIAM: May it please the
24 Tribunal, before my friend, Mr. Cunningham, proceeds
25 with the reading from the Lytton Report it is desired

1 to object to the introduction into evidence of the
2 material from the report with regard to the Chinese
3 boycott which is now being read.

4 MR. CUNNINGHAM: Mr. President, it seems
5 that we have been heard on this matter -- that this
6 matter has been heard before.

7 THE PRESIDENT: I do not know. Do let
8 Brigadier Quilliam finish. We may agree with you,
9 Mr. Cunningham, but we have not heard what Brigadier
10 Quilliam is going to say yet.

11 BRIGADIER QUILLIAM: May it please the
12 Tribunal, this point has not been argued before the
13 Tribunal and it is respectfully requested that in
14 view of the importance of this objection to many other
15 matters of evidence proposed to be introduced the
16 questions involved should be argued fully at this
17 stage.

18 THE PRESIDENT: We will not allow you to re-
19 open the decision on these particular documents already
20 admitted, Brigadier. If similar documents are tendered
21 later perhaps you will be able to put the points which
22 you would not be justified in putting on documents
23 already admitted -- which you would not be allowed to
24 put on documents already admitted.

25 BRIGADIER QUILLIAM: May it please the Tribunal,

1 the objection is to the reading from the Lytton
2 Report of the material with regard to the Chinese
3 boycott. The Lytton Report is, of course, as a whole
4 in evidence but, in our submission, as any evidence
5 relating to the Chinese boycott is irrelevant no
6 further reading from the report on the boycott ques-
7 tion should be permitted.

8 THE PRESIDENT: If we have not admitted
9 the evidence we can always consider any objection
10 you overlooked previously but what is the new objec-
11 tion?

12 BRIGADIER QUILLIAM: The defense, if it
13 please your Honor, is attempting to introduce by this
14 reading evidence with regard to the Chinese boycott.
15 In our submission any evidence relating to that sub-
16 ject, whether it is contained in an exhibit already
17 in evidence or not, is quite irrelevant to the issues
18 involved in this case. In our submission such evidence
19 would be irrelevant even if it be assumed in favor
20 of the defense that the evidence proves the following:

21 (a) That there was, in fact, a Chinese boy-
22 cott against Japan;

23 (b) That the Chinese Government was respons-
24 ible for such boycott; and

25 (c) That as the result of such boycott

1 Japanese interests were injured and the security of
2 Japanese nationals endangered.

3 It needs scarcely be mentioned perhaps
4 that the prosecution does not admit that this as-
5 sumption is justified by the evidence. The assumption
6 is made merely for the purposes of this submission.
7 It is submitted that the matters included in the
8 assumption cannot be held to justify Japan's actions
9 and therefore evidence of such matters should be
10 excluded as being irrelevant. Japan was a party to
11 the Nine-Power Treaty and to the Pact of Paris.

12 THE PRESIDENT: Brigadier, you need not
13 argue to any great length on that. We are all clear
14 that you cannot justify an attack on another country
15 because the other country decides not to trade with
16 you unless perhaps that trade is vital to your very
17 existence. We must leave that open for the time
18 being; but I understood that Mr. Cunningham did
19 allege that this boycott if it existed or took place
20 was an infringement of some treaty with Japan. The
21 documents that you have just referred to did not des-
22 troy treaty rights.

23 BRIGADIER QUILLIAM: If it please the Tribunal,
24 my argument is based on the provisions of the Nine-Power
25 Treaty and it is our submission that as Japan in 1937

1 broke that treaty this point about boycott is no
2 longer admissible. The argument, if it please your
3 Honor, raises a point which has not been dealt with
4 before.

5 By Article 7, I am reading from exhibit
6 No. 63 at page 5, it is provided as follows: "The
7 contracting powers agree that whenever a situation
8 arises which in the opinion of any one of them in-
9 volves the application of the stipulations of the
10 present treaty and renders desirable discussion of
11 such application there should be full and frank com-
12 munication between the contracting powers concerned."

13 May I remind the Tribunal that by the Pact
14 of Paris the parties condemned recourse to war for
15 the solution of international controversies and re-
16 nounced it as an instrument of national policy in
17 their relations with one another.
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1 As shown by ~~part~~ exhibit 58, prosecution
2 document 219-H, the Assembly of the League of Nations
3 on the 6th of August, 1937, adopted a report made by
4 a subcommittee dealing with the conflict then in
5 progress in China. The conclusions of the subcom-
6 mittee are contained in Section IV of the report and
7 are as follows:

8 "It is clear that the two countries take
9 very different views as to the underlying grounds
10 of the dispute and as to the incident which led to
11 the first outbreak of hostilities.

12 "It cannot, however, be challenged that
13 powerful Japanese armies have invaded Chinese terri-
14 tory and are in military control of large areas,
15 including Peiping itself; that the Japanese Government
16 has taken naval measures to close the coast of China
17 to Chinese shipping; and that Japanese aircraft are
18 carrying out bombardments over widely separated
19 regions of the country.

20 "After examination of the facts laid before
21 it, the Committee is bound to take the view that the
22 military operations carried on by Japan against China
23 by land, sea and air are out of all proportion to the
24 incident that occasioned the conflict; that such
25 action cannot possibly facilitate or promote the

1 friendly cooperation between the two nations that
2 Japanese statesmen have affirmed to be the aim of
3 their policy; that it can be justified neither on
4 the basis of existing legal instruments nor on that
5 of the right of self-defense, and that it is in
6 contravention of Japan's obligations under the
7 Nine-power Treaty of February 6th, 1922, and under
8 the Pact of Paris of August 27th, 1928."

9 THE PRESIDENT: Are we bound by those
10 conclusions of fact? Clearly, we are not.

11 BRIGADIER QUILLIAM: If it please your
12 Honor, it is not our submission that the Tribunal
13 is bound by those conclusions, but it is respectfully
14 submitted that they are entitled to very serious
15 consideration in considering the question that I am
16 raising.

17 I should like to refer to a second report
18 of the subcommittee, which was adopted on the same
19 day by the Assembly. This is also included in
20 part exhibit 58. After recommending the consultation
21 among the states concerned should be initiated by the
22 Assembly, the report contains in paragraph 13 the
23 following further recommendations:

24 "Pending the results of the action proposed,
25 the Advisory Committee should invite the Assembly to

1 express its moral support for China and to recommend
2 that Members of the League should refrain from taking
3 any action which might have the effect of weakening
4 China's power of resistance and thus of increasing
5 her difficulties in the present conflict, and should
6 also consider how far they can individually extend
7 aid to China."

8 As is shown by exhibit 63, the Report
9 of the Conference of Brussels held in November, 1937,
10 a conference was held to consider these questions.

11 THE PRESIDENT: The question of the
12 admissibility of these documents should be determined
13 without reference to the views of the League of
14 Nations, Brigadier. They may prove to be irrelevant.
15 This evidence which Mr. Cunningham is putting before
16 us may prove to be irrelevant or immaterial, but, to
17 say the least, we have a doubt about it, and in those
18 circumstances we should admit it.

19 BRIGADIER QUILLIAM: As we submit, your
20 Honor, the Tribunal should hold at this stage that
21 Japan by its actions in China and by its refusal to
22 resort to methods of conciliation was guilty of a
23 breach of the Nine-Power Treaty and also the Pact of
24 Paris.

25 THE PRESIDENT: You will get no decision on

1 an issue from us until the end of the trial, Briga-
2 dier. We will give you decisions on evidence; we
3 must; but no decisions on issues even if it tends to
4 shorten the trial to do that. It would be most
5 unsatisfactory, most unusual, and wholly unjustifiable.
6 This is an attempt to shorten the trial by getting
7 piecemeal decisions from us on issues, and the
8 attempt fails.

9 BRIGADIER QUILLIAM: If it please the
10 Tribunal, in view of what your Honor has said I
11 certainly will not press the matter.

12 THE PRESIDENT: Am I under misapprehension
13 as to your attitude, Brigadier? If I am, correct me.

14 BRIGADIER QUILLIAM: With the greatest
15 respect to your Honor, I think your Honor is under
16 a misapprehension.

17 THE PRESIDENT: Well, I may be, but if your
18 argument is confined solely to the question of ad-
19 missibility of evidence I must hear you fully.

20 BRIGADIER QUILLIAM: May it please your
21 Honor, in our submission this is a question of the
22 admissibility of evidence. In our submission, if
23 the Tribunal will now consider the point that is
24 being raised it is not determining a substantial
25 issue in the case; it is determining a matter upon

1 which the ruling may properly be given as to the
2 admissibility of evidence.

3 THE PRESIDENT: Well, it does appear to
4 me and to at least another, if I may say so, astute
5 Member of the Court, that you are really saying to
6 us in effect: Take these conclusions of the League
7 of Nations; eliminate this issue; reduce the evidence
8 accordingly.

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1 BRIGADIER QUILLIAM: If it please your Honor,
2 I am anxious not to press this matter unreasonably,
3 but if pur view is right it is possible and, indeed,
4 it is necessary to consider it in order to determine
5 whether this evidence that is now being used should be
6 submitted at all. In short, if it please your Honor,
7 we object to this evidence as irrelevant and we support
8 our contention by endeavoring to show that Japan
9 committed a breach of these treaties and is, therefore,
10 precluded from relying on such matters as boycott in
11 support of her action.

12 THE PRESIDENT: Now you have made your position
13 perfectly clear. You say to us, "Hold that Japan
14 committed a breach of the treaties." We cannot at
15 this stage do that. Overwhelming though the evidence
16 might be of such a breach, in a criminal trial you
17 cannot make a finding until you reach a verdict.

18 BRIGADIER QUILLIAM: Might I just add this
19 point, if it please your Honor. Treating the question
20 of whether there was a breach of the treaties as still
21 undecided, the boycott evidence can throw no light on
22 that question.

23 THE PRESIDENT: Now you are getting away from
24 your new point. You may be getting on to another new
25 point.

1 BRIGADIER QUILLIAM: In my submission, if it
2 please your Honor, it comes within the compass of my
3 first point but I certainly do not intend to press
4 the matter in view of your Honor's attitude toward it.

5 THE PRESIDENT: The Court's attitude.

6 BRIGADIER QUILLIAM: I beg your Honor's
7 pardon. I should have said the attitude of the
8 Tribunal.

9 THE PRESIDENT: Objection overruled.

10 MR. CUNNINGHAM: If it please the Tribunal,
11 I continue the reading of the Lytton Report on page
12 117 of the Report. We left off at the word "eventual-
13 ities."

14 "A powerful means of enforcing the boycott
15 is the compulsory registration of Japanese goods held
16 in stock by Chinese merchants. Inspectors of the
17 anti-Japanese societies watch the movement of Japanese
18 goods, examine those of doubtful origin in order to
19 ascertain whether or not they are Japanese, undertake
20 raids on stores and godowns where they suspect the
21 presence of non-registered Japanese goods, and bring
22 to the attention of their principals any case of the
23 violation of the rules they may discover. Merchants
24 who are found to be guilty of such a breach of the
25 rules are fined by the Boycott Associations themselves,

1 and publicly exposed to popular disapproval, while the
2 goods in their possession are confiscated and sold at
3 public auction, the proceeds going into the funds of
4 the anti-Japanese organisation.

5 "The boycott is not limited to trade alone.
6 Chinese are warned not to travel on Japanese ships,
7 to use Japanese banks or to serve Japanese in any
8 capacity, either in business or in domestic service.
9 Those who disregard these instructions are subjected
10 to various forms of disapproval and intimidation.

11 "Another feature of this boycott, as of pre-
12 vious ones, is the wish not only to injure Japanese
13 industries, but to further Chinese industries by stimu-
14 lating the production of certain articles which have
15 hitherto been imported from Japan. The principal result
16 has been an extension of the Chinese textile industry
17 at the expense of Japanese-owned mills in the Shanghai
18 area.

19 "The boycott of 1931, organised on the lines
20 just described, continued until about December of that
21 year, when a certain relaxation became apparent. In
22 January 1932, in the course of the negotiations then
23 proceeding between the Mayor of Greater Shanghai and
24 the Japanese Consul-General in that city, the Chinese
25 even undertook to dissolve voluntarily the local

1 anti-Japanese association.

2 "During the hostilities in Shanghai, and the
3 months immediately following the evacuation of the
4 Japanese troops, the boycott, although never completely
5 abandoned, was moderated, and during late spring and
6 early summer it even looked as if Japanese trade in
7 different parts of the country might resume. Then,
8 quite suddenly, at the end of July and beginning of
9 August, coinciding with the reported military activity
10 on the borders of Jehol, there was a marked revival
11 of the boycott movement. Articles urging the people
12 not to buy Japanese goods appeared anew in the Chinese
13 Press, the Shanghai Chamber of Commerce published a
14 letter suggesting a resumption of the boycott, and the
15 Coal Merchants' Guild in the same city decided to
16 restrict to the minimum the importation of Japanese
17 coal. At the same time, more violent methods were
18 employed, such as the throwing of a bomb into the
19 compound of a coal dealer suspected of having handled
20 Japanese coal, and the sending of letters to store-
21 keepers threatening to destroy their property unless
22 they stopped selling Japanese commodities. Some of
23 the letters reproduced in the newspapers were signed
24 the 'Blood-and-Iron Group' -- or the 'Blood-and-Soul
25 Group for the Punishment of Traitors.'

1 "Such is the situation at the time of writing
2 this Report. This recrudescence of the boycott activity
3 caused the Japanese Consul-General in Shanghai to
4 lodge a formal protest with the local authorities.

5 "The various boycott movements, and the present
6 one in particular, have seriously affected Sino-Japanese
7 relations, both in a material and in a psychological
8 sense,

9 "As far as the material effects are concerned --
10 that is, the loss of trade -- the Chinese have a tendency
11 to under-state them in their desire to present the boy-
12 cott as rather a moral protest than as an act of
13 economic injury, while the Japanese attach too absolute
14 a value to certain trade statistics. The arguments
15 used in this connection by the two parties are examined
16 in the annexed study already referred to. In that study,
17 also, will be found full particulars of the extent of
18 the damage done to Japanese trade, which has certainly
19 been considerable.

20 "Another aspect of the subject should also be
21 mentioned. The Chinese themselves suffer losses from
22 goods already paid for, not registered with the Boy-
23 cott Associations, and seized for public auction; from
24 fines paid to the associations for violation of the
25 boycott rules; from revenue not received by the Chinese

1 Maritime Customs, and, generally speaking, from loss
2 of trade. These losses are considerable.

3 "Psychological effect on Sino-Japanese rela-
4 tions.

5 "The psychological effect of the boycott on
6 Sino-Japanese relations, although even more difficult
7 to estimate than the material effect, is certainly
8 not less serious, in that it has had a disastrous
9 repercussion on the feelings of large sections of
10 Japanese public opinion towards China. During the
11 visit of the Commission to Japan, both the Tokyo and
12 the Osaka Chambers of Commerce stressed this subject.

13 "The knowledge that Japan is suffering
14 injuries against which she cannot protect herself has
15 exasperated Japanese public opinion. The merchants
16 whom we interviewed at Osaka were inclined to exag-
17 gerate certain abuses of boycott methods as racketerr-
18 ing and blackmailing, and to under-estimate or even to
19 deny completely the close relationship between Japan's
20 recent policy towards China and the use of the boycott
21 as a defensive weapon against that policy. On the
22 contrary, instead of regarding the boycott as China's
23 weapon of defence, these Japanese merchants insisted
24 that it was an act of aggression against which the
25 Japanese military measures were a retaliation. Anyway,

1 there is no doubt that the boycott has been amongst
2 the causes which have profoundly embittered the rela-
3 tions between China and Japan in recent years.

4 "Controversial issues in connection with the
5 boycott: (1) Whether the movement is spontaneous or
6 organised.

7 "There are three controversial issues involved
8 in the policy and methods of the boycott.

9 "The first is the questions whether the move-
10 ment is purely spontaneous, as the Chinese themselves
11 claim, or whether, as the Japanese allege, it is an
12 organised movement imposed upon the people by the
13 Kuomintang by methods which at times amount to terror-
14 ism. On this subject much may be said on both sides.
15 On the one hand, it would appear to the impossible
16 for a nation to exhibit the degree of co-operation
17 and sacrifice involved in the maintenance of a boycott
18 over a wide area and for a long period if there did
19 not exist a foundation of strong popular feeling. On
20 the other hand, it has been clearly shown to what ex-
21 tent the Kuomintang, using the mentality and the methods
22 which the Chinese people have inherited from their old
23 guilds and secret societies, has taken control of
24 the recent boycotts, and particularly of the present
25 one. The rules, the discipline, and the sanction used

1 against the 'traitors', which form such an essential
2 part of the present boycott, show that, however spon-
3 taneous, the movement is certainly strongly organised.

4 "All popular movements require some measure
5 of organisation to be effective. The loyalty of all
6 adherents to a common cause is never uniformly strong
7 and discipline is required to enforce unity of purpose
8 and action. Our conclusion is, that the Chinese boy-
9 cotts are both popular and organised; that, though
10 they originate in and are supported by strong national
11 sentiment, they are controlled and directed by
12 organisations which can start or call them off, and that
13 they are enforced by methods which certainly amount
14 to intimidation. While many separate bodies are in-
15 volved in the organisation, the main controlling author-
16 ity is the Kuomintang.

17 "(2) Legality or otherwise of boycott methods.

18 "The second issue is whether or not, in the
19 conduct of the boycott movement, the methods employed
20 have always been legal. From the evidence collected
21 by the Commission, it is difficult to draw any other
22 conclusion than that illegal acts have been constantly
23 committed, and that they have not been sufficiently
24 suppressed by the authorities and the courts. The
25 fact that these methods are mainly the same as those

1 used in China in olden days may be an explanation, but
2 not a justification. When in former days a guild
3 elected to declare a boycott, searched the houses of
4 suspected members, brought them before the Guild Court,
5 punished them for a breach of rules, imposed fines and
6 sold the goods seized, it acted in conformity with the
7 customs of that time. Moreover, it was an internal
8 affair of a Chinese community, and no foreigner was
9 involved. The present situation is different. China
10 has adopted a code of modern laws, and these are
11 incompatible with the traditional methods of trade
12 boycotts in China. The memorandum in which the Chinese
13 Assessor has defended his country's point of view with
14 regard to the boycott does not contest this statement,
15 but argues that 'the boycott ... is pursued, generally
16 speaking, in a legitimate manner'. The evidence at
17 the disposal of the Commission does not bear out this
18 contention.

19 "In this connection, a distinction should be
20 made between the illegal acts committed directly against
21 foreign residents in casu Japanese, and those committed
22 against Chinese with the avowed intention, however,
23 of causing damage to Japanese interests. As far as
24 the former are concerned, they are clearly not only
25 illegal under the laws of China but also incompatible

1 with treaty obligations to protect life and property
2 and to maintain liberty of trade, residence, movement
3 and action. This is not contested by the Chinese,
4 and the boycott associations, as well as the Kuomin-
5 tang authorities, have tried, although they may not
6 always have been successful, to prevent offences of
7 this kind. As already stated, they have occurred less
8 frequently during the present boycott than on pre-
9 vious occasions."

And then, let us go down to the footnote:

"According to recent Japanese information, there were thirty-five instances in which goods belonging to Japanese merchants were seized and kept in detention by members of the Anti-Japanese Associations in Shanghai during the period from July 1931 to the end of December 1931. The value of the goods involved was estimated approximately at \$287,000. Of these instances, in August 1932, five were reported as still remaining unsolved.

"With regard to illegal acts committed against Chinese, the Chinese Assessor observed on page 17 of his memorandum on the boycott:

"We would like to observe, in the first place, that a foreign nation is not authorized to raise a question of internal law. In fact, we find ourselves confronted with acts denounced as unlawful but committed by Chinese nationals in prejudice to other Chinese nationals. Their suppression is a matter for the Chinese authorities, and it seems to us that no one has the right of calling into account the manner in which the Chinese penal law is applied in matters where both offenders and sufferers belong to our own nationality. No state has the right of intervention in the administration of exclusively

1 domestic affairs of another state. This is what
2 the principle of mutual respect for each other's
3 sovereignty and independence means.'

4 "So stated, the argument is incontestable,
5 but it overlooks the fact that the ground of the
6 Japanese complaint is not that one Chinese national
7 has been illegally injured by another, but that the
8 injury has been done to Japanese interests by the
9 employment of methods which are illegal under Chinese
10 law, and that failure to enforce the law in such
11 circumstances implies the responsibility of the
12 Chinese Government for the injury done to Japan.

13 "(3) Responsibility of the Chinese Govern-
14 ment for the boycott.

15 "This leads to a consideration of the last
16 controversial point involved in the policy of the
17 boycott -- namely, the extent of the responsibility
18 of the Chinese Government. The Chinese official
19 attitude is that 'the liberty of choice in making
20 purchases is a personal right which no Government
21 can interfere with; while the Governments are
22 responsible for the protection of lives and property,
23 they are not required by any commonly recognized
24 regulations and principles to prohibit and punish
25 the exercise of an elemental right of every citizen.'

1 "The Commission has been supplied with
2 documentary evidence which is reproduced in the
3 Study No. 8 annexed to this Report and which indicates
4 that the part taken by the Chinese Government in the
5 present boycott has been somewhat more direct than
6 the quotation above would tend to indicate. We do
7 not suggest that there is anything improper in the
8 fact that Government departments should support the
9 boycott movement; we only wish to point out that
10 official encouragement involves a measure of Govern-
11 ment responsibility. In this connection, the question
12 of relations between the Government and the Kuomintang
13 must be considered. Of the responsibility of the latter
14 there can be no question. It is the controlling and
15 co-ordinating organ behind the whole boycott move-
16 ment. The Kuomintang may be the maker and the master
17 of the Government, but to determine at what point
18 the responsibility of the party ends and that of
19 the Government begins is a complicated problem of
20 constitutional law on which the Commission does not
21 feel it proper to pronounce.

22 "Comments.

23 "The claim of the Government that the boycott
24 is a legitimate weapon of defence against military
25 aggression by a stronger country, especially in cases

1 where methods of arbitration have not previously
2 been utilised, raises a question of a much wider
3 character. No one can deny the right of the individual
4 Chinese to refuse to buy Japanese goods, use Japanese
5 banks or ships, or to work for Japanese employers,
6 to sell commodities to Japanese, or to maintain
7 social relations with Japanese. Nor is it possible
8 to deny that the Chinese, acting individually or
9 even in organised bodies, are entitled to make
10 propaganda on behalf of these ideas, always subject
11 to the condition, of course, that the methods do not
12 infringe the laws of the land. Whether, however,
13 the organised application of the boycott to the
14 trade of one particular country is consistent with
15 friendly relations or in conformity with treaty
16 obligations is rather a problem of international law
17 than a subject for our enquiry. We would express
18 the hope, however, that, in the interest of all
19 States, this problem should be considered at an early
20 date and regulated by international agreement.

21 "In the course of the present chapter, it
22 has been shown first that Japan, in connection with
23 her population problem, is seeking to increase her
24 industrial output and to secure for this purpose
25 reliable oversea markets; secondly, that, apart

1 from the export of raw silk to the United States of
2 America, China constitutes the principal market for
3 Japanese exports and at the same time supplies the
4 Island Empire with an important amount of raw materials
5 and foodstuffs. Further, China has attracted nearly
6 the whole of Japan's foreign investments, and even
7 in her present disturbed and undeveloped condition,
8 offers a profitable field to Japanese economic and
9 financial activities of various types. Finally,
10 an analysis of the injury caused to Japanese interests
11 in China by the various boycotts which have succeeded
12 one another from 1908 until to-day has drawn attention
13 to the vulnerable character of those interests.

14 "The dependence of Japan on the Chinese
15 market is fully recognised by the Japanese them-
16 selves. On the other hand, China is a country which
17 stands in the most urgent need of development in
18 all fields of economic life, and Japan, which in
19 1931, notwithstanding the boycott, occupied the first
20 place in her total foreign trade, seems, more than
21 any other foreign Power, indicated as an ally in
22 economic matters.

23 "The interdependence of the trade of those
24 two neighbouring countries and the interests of both
25 call for an economic rapprochement, but there can

1 be no such rapprochement so long as the political
2 relations between them are so unsatisfactory as to
3 call forth the use of military force by one and the
4 economic force of the boycott by the other."

5 Taking the first paragraph in Chapter
6 VIII, page 121, under "Economic Interests in Man-
7 churia."

8 "It has been shown in the preceding chapter
9 that the economic requirements of Japan and China,
10 unless disturbed by political considerations, would
11 lead to mutual understanding and co-operation and
12 not to conflict. The study of the inter-relation
13 between Japanese and Chinese economic interests
14 in Manchuria, taken in themselves and apart from
15 the political events of recent years, leads to the
16 same conclusion. The economic interests of both
17 countries in Manchuria are not irreconcilable;
18 indeed, their reconciliation is necessary if the
19 existing resources and future economic possibilities
20 of Manchuria are to be developed to the fullest
21 extent."

22 Now we go to page 129, under the heading
23 of "International Interests."

24 "Apart from China and Japan, other Powers
25 of the world have also important interests to defend

1 in this Sino-Japanese conflict. We have already
2 referred to existing multilateral treaties, and
3 any real and lasting solution by agreement must be
4 compatible with the stipulations of these fundamental
5 agreements, on which is based the peace organisation
6 of the world. The considerations which actuated
7 the representatives of the Powers at the Washington
8 Conference are still valid. It is quite as much in
9 the interests of the Powers now as it was in 1922
10 to assist the reconstruction of China and to maintain
11 her sovereignty and her territorial and administrative
12 integrity as indispensable to the maintenance of
13 peace. Any disintegration of China might lead,
14 perhaps rapidly, to serious international rivalries,
15 which would become all the more bitter if they
16 should happen to coincide with rivalries between
17 divergent social systems. Finally, the interests
18 of peace are the same the world over. Any loss of
19 confidence in the application of the principles of
20 the Covenant and of the Pact of Paris in any part
21 of the world diminishes the value and efficacy of
22 those principles everywhere.

23 "Interests of U.S.S.R.

24 "The Commission has not been able to obtain
25 direct information as to the extent of the interests

1 of the U.S.S.R. in Manchuria, nor to ascertain the
2 views of the Government of the U.S.S.R. on the
3 Manchurian question. But, even without sources of
4 direct information, it cannot overlook the part
5 played by Russia in Manchuria nor the important
6 interests which the U.S.S.R. have in that region as
7 owners of the Chinese Eastern Railway and of the
8 territory beyond its north and north-east frontiers.
9 It is clear that any solution of the problem of
10 Manchuria which ignored the important interests
11 of the U.S.S.R. would risk a future breach of the
12 peace and would not be permanent."

13 I read 4, 5 and 6 on the same page:

14 "Recognition of Japan's interests in
15 Manchuria.

16 "The rights and interests of Japan in
17 Manchuria are facts which cannot be ignored, and
18 any solution which failed to recognise them and to
19 take into account also the historical associations
20 of Japan with that country would not be satisfactory.

21 "The establishment of new treaty relations
22 between China and Japan.

23 "A re-statement of the respective rights,
24 interests and responsibilities of both countries
25 in Manchuria in new treaties, which shall be part

1. of the settlement by agreement, is desirable if
2. future friction is to be avoided and mutual confidence
3. and co-operation are to be restored.

4. "Effective provision for the settlement of
5. future disputes.

6. "As a corollary to the above, it is necessary
7. that provision should be made for facilitating the
8. prompt settlement of minor disputes as they arise."

9. That concludes the reading of the provisions
10. from the Lytton Report.

11. We now offer in evidence defense document
12. No. 262, which is an extract from the Asahi Shinbun
13. of the 20th April, 1928, which is an official
14. statement issued by the Japanese government concerning
15. the expedition to China. It shows that the Japanese
16. maintained the viewpoint that when it was no longer
17. necessary to protect Japanese residents, troops
18. would be automatically withdrawn. This document
19. emphasizes the unsettled conditions in China existing
20. at the time.

21. THE PRESIDENT: Brigadier Quilliam.

22. BRIGADIER QUILLIAM: May it please the
23. Tribunal, the prosecution object to the introduction
24. of this press release so far back as 1928 on the
25. grounds that had been so frequently urged in objecting

1. of the settlement by agreement, is desirable if
2. future friction is to be avoided and mutual confidence
3. and co-operation are to be restored.

4. "Effective provision for the settlement of
5. future disputes.

6. "As a corollary to the above, it is necessary
7. that provision should be made for facilitating the
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22. BRIGADIER QUILLIAM: May it please the
23. Tribunal, the prosecution object to the introduction
24. of this press release so far back as 1928 on the
25. grounds that had been so frequently urged in objecting

to press releases.

1 MR. CUNNINGHAM: This document, I submit,
2 throws some light upon the conditions which existed
3 at the time, and, taken into consideration with the
4 material which is to follow, will bear some light
5 on this issue which we are now presenting.

6 THE PRESIDENT: By a majority the Court
7 upholds the objection and rejects the document.

8 MR. CUNNINGHAM: At this time we introduce
9 a witness.

10 Do you wish to have him introduced before
11 the recess, or do you wish to hear him after?

12 THE PRESIDENT: Have you any more documents
13 you can conveniently present?

14 MR. CUNNINGHAM: We have them in an order,
15 your Honor.

16 THE PRESIDENT: Well, swear him.

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1 K A T S U O F U R U Y A M A, called as
2 a witness on behalf of the defense,
3 being first duly sworn, testified through
4 Japanese interpreters as follows:

DIRECT EXAMINATION

5 BY MR. CUNNINGHAM:

6 MR. CUNNINGHAM: I ask that the witness
7 be shown defense document No. 1006.
8

9 THE PRESIDENT: Ask for his name and address.

10 Q I ask you to state your name and present
11 address.

12 A I reside in Tokyo at Suginamiku, Mabashi
13 1-chome, No. 41. My name is FURUYAMA, Katsuo.

14 MR. CUNNINGHAM: I ask that the witness
15 be shown defense document No. 1006 for the purposes
16 of identification.

17 (Whereupon, the document above re-
18 ferred to was handed to the witness.)

19 Q The Marshal has handed you defense document
20 1006, and I ask you to state whether that is your
21 affidavit.

22 A This is my affidavit.

23 Q I ask you to state if all the statements
24 contained in the affidavit are true?

25 A All true.

FURUYAMA

DIRECT

1 MR. CUNNINGHAM: I now offer in evidence
2 defense document No. 1066, which is the affidavit
3 of FURUYAMA, Katsuo.

4 THE PRESIDENT: Admitted on the usual terms.
5 We will recess for fifteen minutes.

6 (Whereupon, at 1045, a recess was
7 taken until 1100 after which the proceedings
8 were resumed as follows):
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1 MARSHALL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 CLERK OF THE COURT: Defense document
4 No. 1006 will receive exhibit No. 2505.

5 (Whereupon, the document above
6 referred to was marked defense exhibit No.
7 2505 and received in evidence.)

8 MR. CUNNINGHAM: I skip the formal parts
9 and begin with the witness' qualifications:

10 "Graduated from the Law Department of the
11 Tokyo Imperial University in 1921, became a member
12 of the South Manchurian Railway Company Ltd. in May
13 of the same year." Resigned from the Company at its
14 dissolution in September 1945. While in the South
15 Manchurian Railway Company I was an adviser of the
16 Mukden Railway Office, January 1932 to May 1934.

17 "Regarding the So-called Dairen Conference
18 I state as follows:

19 "Manchukuo was founded on March 1st, 1932.
20 It took about one year and a half to see the internal
21 order and peace regained, and various systems needed
22 in an independent state inaugurated. It was on
23 September 15th, 1932, that Manchukuo gained recog-
24 nition by Japan as an independent state. Later the
25 UMEZO-Ho-Ying-Chin agreement was--"

1 We have to insert there "agreed" rather
2 than "signed" on account of a translation error.
3 I ask that that be referred and verified by the
4 translation department.

5 THE PRESIDENT: Referred accordingly.

6 MR. CUNNINGHAM: (Continuing).

7 "--for the purpose of solving all disputes
8 between China and Manchukuo. An understanding was
9 reached between the leaders of the two countries
10 to make use of that opportunity and settle all
11 other questions pending between China and Manchukuo.
12 In July or so of 1933 a Conference was held at
13 Dairen for inaugurating a through--"

14 THE PRESIDENT: "service".

15 MR. CUNNINGHAM: "--service between rail-
16 ways and communications of the two countries.

17 "I myself took part in matters of the
18 railway. China was represented at this conference
19 by the Director of the Peiping-Shanhaik Railway,
20 Mr. Yin Tung, and the local government representa-
21 tive, Mr. Lei Shou-Yang, as Chief-delegates, while
22 from the side of Manchukuo the Director of the
23 Mukden Railway, Mr. Kan-Tuo, and I, then Adviser
24 to the same Railway Office, attended as Chief
25 delegates.

1 "The conference was held at the Ryoto
2 Hotel, Dairen. As a result of the conference an
3 establishment, the Toho-Ryokosha (the East Tourist
4 Bureau), was set up which was to be run by the
5 joint management of China and Manchukuo for the
6 purpose of carrying on all businesses concerning
7 the through traffic service. All detailed matters
8 were drawn up in about two months after the con-
9 ference, and this became the agreement governing
10 through traffic services of the Mukden-Shanhaikwan
11 and Peiping-Shanhaikwan Railways. The through
12 railway traffic service between the two countries
13 by the virtue of the aforesaid agreement was com-
14 menced from about January 1st, 1934."

15 Signed "FURUYAMA, Katsuo".

16 If there are no further questions by anyone
17 they may cross-examine if they desire.

18 THE PRESIDENT: Judge Nyi.

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CROSS-EXAMINATION

1 BY JUDGE NYI:

2 Q Mr. Witness, what was the Mukden Railway
3 office you refer to in your affidavit?
4

5 A I do not understand your meaning.

6 Q I say, what was the Mukden Railway office?
7 In other words, which railway are you referring to?
8 From which point to which point?

9 A Dealing with train -- a railway line be-
10 tween Mukden and Shanhaikuan.

11 Q What was its former name?

12 A The former name of the office -- the former
13 name of the railway was known as Peining.

14 Q So, it should be between Peking and Mukden
15 but for the war?

16 A Yes.

17 Q Did it come under the control of the South
18 Manchurian Railway?

19 A No.

20 Q Was it true that a contract had been entered
21 into between the Japanese and Manchukuo that all the
22 Manchurian railways should be operated by the South
23 Manchurian Railway, the date of which, if I may
24 refer to you, is February 9, 1933?

25 A I am not familiar with that matter.

1 Q Was it true that a protocol between Man-
2 chukuo and Japan, September 1932, guaranteed that
3 the treaty rights of Japan, as formerly enjoyed,
4 should not be affected by the establishment of
5 Manchukuo?

6 MR. CUNNINGHAM: That is objected to for
7 the reason that it calls for an opinion and a con-
8 clusion of the witness and is beyond the scope of
9 the witness' affidavit.

10 THE PRESIDENT: I don't think it is either.
11 He is asked to say whether there was such an agree-
12 ment. That does not involve any conclusion; and
13 there is a statement in his affidavit which shows
14 that the scope is very broad. Objection overruled.

15 Q Will you please answer my question?

16 A I am not familiar with such basic funda-
17 mental matters because I was merely a technical
18 adviser on railway matters.

19 THE PRESIDENT: He shows a knowledge of
20 basic fundamental matters, but his knowledge may not
21 extend to the particular matter to which you refer,
22 Judge Nyi.

23 Q You have stated in your affidavit that,
24 while you were with the South Manchurian Railway,
25 you served as an adviser to the Mukden Railway

1 office. So, I took it that you know the relation
2 between the Japanese-operated railway and the rail-
3 way of Manchukuo. Now, was it true that, after the
4 establishment of Manchukuo, matters relating to
5 railways through Manchuria were entirely entrusted
6 to the Japanese?

7 A At that time the matter did not reach that
8 stage. At that time I was adviser to the Mukden
9 Railway office in response to an invitation to serve
10 in that capacity, and at that time I was not familiar
11 as to how far questions of that nature progressed.

12 Q How did you become the adviser of the
13 Mukden Railway office?

14 A The matter was proposed by the Chief of the
15 Mukden Railway office, namely, Mr. Kan Tuo, to the
16 President of the South Manchurian Railway, and the
17 President of the South Manchuria Railway ordered
18 me to serve as adviser to -- in response to that in-
19 vitation.

20 Q So that authority to serve still come from
21 South Manchurian Railway, was it?

22 A Yes.

23 Q Do I understand it correctly that you
24 served also on the recommendation of the Kwantung
25 Army?

FURUYAMA

CROSS

1 A That I do not know anything about.

2 Q What do you mean by you do not know? You
3 are supposed to know where the recommendation come
4 from.

5 A I took over the position at the order of
6 the President of the South Manchuria Railway. I
7 do not know what kind of conversations took place
8 before that order was given.

9 Q Was it true that up to that time there
10 was an agreement in force between the Japanese and
11 the Manchurian authorities that Japanese advisers
12 should be employed in government offices?

13 A That I am not quite familiar with.

14 Q Considering the position you held in
15 South Manchurian Railway and the agreement between
16 Japan and Manchukuo, as I have just mentioned, is
17 it more appropriate to take you as representing the
18 Japanese rather than Manchukuo in the Dairen Confer-
19 ence?

20 A I attended the Dairen Conference as an
21 adviser to the Chief of the Mukden Railway office,
22 Mr. Kan Tuo.

23 Q What was the position of Mr. Kan Tuo?

24 THE PRESIDENT: He said he was Chief of
25 that railway office.

1 Q What was the position of Mr. Lei Shou-jung,
2 you mentioned in your affidavit as representing the
3 Chinese?

4 A I do not know well, but he was a representa-
5 tive of Chinese political organs at the conference.

6 Q But you do know that he represent the local
7 government, do you?

8 A Yes, I interpret him as a representative
9 of a local regime in Peiping because he had come as
10 a representative from Peiping. I do not know what
11 kind of relations he had politically with the south.

12 Q With regard to the result of the conference,
13 you stated that the Eastern Tourist Bureau was
14 formed. Was it a Sino-Japanese joint enterprise?

15 A No. This organization, the Eastern Tourist
16 Bureau, was created after talks between the Mukden-
17 Shanhaikuan and Peining Railway authorities.

18 Q But, still it is jointly operated by the
19 Japanese and Chinese authorities -- the Chinese and
20 the Japanese people, aren't they?

21 A No. It was made up of authorized repre-
22 sentatives of both railways, namely, the Mukden-
23 Shanhaikuan and Peining Railways; and, although
24 there were two or three Japanese assisting in the
25 enterprise, it was not a Japanese enterprise what-

soever.

1 Q Do you know what was the composition of
2 the Eastern Tourist Bureau?

3 A Well, being something occurred quite a long
4 time ago, I do not remember very well; but railway
5 carriages were provided for by this company for the
6 Mukden-Shanhaikuan and Peining Railways, and this
7 company took over and handled through traffic exclu-
8 sively.

9 Q I understand that the through traffic was
10 operated by the railways, but what about the other
11 administrative matters? If I may refresh your mind,
12 was it represented on the Chinese side by the China
13 Travel Service and on the Japanese side, the Japan-
14 ese Tourist Bureau?

15 A It is not related to either of these two.
16 This company was organized by the Mukden-Shanhaikuan
17 and Peining Railway companies -- offices.

18 JUDGE NYI: If your Honor please, I would
19 like to reserve the right to -- reserve the intro-
20 duction of further evidence on this at a later
21 stage about the composition of the East Travel
22 Bureau.
23

24 THE PRESIDENT: Evidence may be given in
25 rebuttal on the usual terms later.

1 JUDGE NYI: And this piece of evidence in
2 question will show that this is entirely operated
3 by two private bureaus.

4 THE PRESIDENT: You cannot personally give
5 evidence at any stage unless you go in the witness
6 box.

7 MR. CUNNINGHAM: Is it suggested, your
8 Honor, that under the Charter the prosecution has a
9 right of rebuttal after the defense concludes its
10 evidence?

11 THE PRESIDENT: It was so decided, and the
12 decision was given in court here. You must have
13 been away on that occasion, Mr. Cunningham.

14 Judge Nyi.

15 BY JUDGE NYI (Continued):

16 Q Mr. Witness, was Dairen situated inside the
17 Kwantung Leased territory?

18 A Yes.

19 Q Was it set apart from the rest of Manchuria
20 politically?

21 A Yes.

22 Q Why Dairen was chosen as the place of
23 meeting?

24 A That I do not know.

25 Q Was Dairen on the railway in question?

1 A No.

2 Q Why was it necessary to hold the meeting,
3 instead of on some town on the railway line, but
4 hold it in a far, remote place, and that place was
5 the former abode of the Kwantung Headquarters?

6 A That I do not know, but I should think that
7 the place was chosen because of its good climate and
8 various accommodations which were pleasant.

9 Q Why was the conference held in a hotel in-
10 stead of in some government office building?

11 THE PRESIDENT: That is trifling. Confer-
12 ences between railway commissioners from different
13 countries are frequently held in the office of one
14 of them.

15 JUDGE NYI: I withdraw that question.
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Q Do you know that China had made a reservation that such talk could not imply recognition of Manchukuo?

A I do not know.

Q Considering all the facts and circumstances it was a meeting of the local officials, was it?

A That I am not positive about.

Q Now, you put on page 1 of your affidavit, the fourth line from the bottom, you said: "Regarding the so-called Dairen Conference, . . ." Why did you put that word "so-called" there? Is it true that you are not so sure that this conference does not deserve the term "conference?"

A No. I mean to say that it was generally and customarily called "Dairen Conference" at the time. That is why I used the term.

Q Why was it necessary to put this "so-called?" The meaning would be very explicit without putting that word "so-called."

A I did not think that matter to be so important at that time.

Q Now, with regard to the result of the conference, so-called conference, you say that the details were not put into effect until two months afterwards?

Excuse me, the question should be: The detailed matters

1 were drawn up in about two months -- I mean it isn't
2 to ask him it is not effected until two months after-
3 wards -- drawn up.

4 Do you mean that matters, detailed matters,
5 were drawn up which were not effected until afterwards?

6 A I mean to say that at the Dairen Conference
7 the principle of establishing the tourist bureau and
8 through traffic was determined, and that it required
9 two months to arrange the details.

10 Q Do you know that as late as June 1934 the
11 Kwantung Army was still exercising pressure for
12 putting into effect the through traffic of the railway,
13 and that was about a year after the so-called Dairen
14 Conference?

15 A Of that I do not have any clear or positive
16 recollection.

17 DR. NYI: Your Honor, in this connection the
18 prosecution will adduce further evidence to prove that
19 it was the Kwantung Army which insisted on the resump-
20 tion of the through traffic. This will be introduced
21 later at a later stage.

22 THE PRESIDENT: This is your explanation of
23 why you are not pressing the cross-examination.

24 Q Why was it not put into effect until at such
25 a late stage?

1 THE PRESIDENT: He says he doesn't know any-
2 thing about it, so don't ask him.

3 DR. NYI: I will withdraw the question.

4 Q Did you know that the actual resumption did
5 not take place until July 1934?

6 A I have no positive recollection.

7 Q Why did you say in the last sentence of your
8 affidavit, "The through railway traffic service between
9 the two countries by the virtue of the aforesaid agree-
10 ment was commenced from about January 1st, 1934"?

11 A Yes. In my recollection the through traffic
12 was effected as of the new year of the following year.

13 Q Are you sure about it?

14 A Yes, I think so positively.

15 DR. NYI: In this connection we will adduce
16 evidence in a later stage to prove that it was not
17 resumed until July 1st, 1934.

18 THE PRESIDENT: Mr. Cunningham.

19 MR. CUNNINGHAM: It is suggested that the
20 evidence in this respect should be submitted now, at
21 least while we have this witness here who is familiar
22 with the subject.

23 THE PRESIDENT: If it would refresh the witness'
24 memory that would be the usual course. But the prosecu-
25 tor has the option of tendering the document later, and

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1 his failure to examine on the details of it now can
2 only be a matter for comment. It does not render it
3 inadmissible.

4 MR. CUNNINGHAM: My suggestion is we ought to
5 settle these issues as we go along, because this sug-
6 gests surrebuttal and the continuation of the trial
7 ad infinitum.

8 THE PRESIDENT: We are, indeed, indebted to
9 you, Mr. Cunningham, for your suggestion, but we will
10 still control the trial.

11 BY DR. NYI (Continuing):

12 Q Now, Mr. Witness, on page 2 you have made a
13 narration of the events since the establishment of
14 Manchukuo. Did you put them in chronological order?

15 A Yes, I think I so put them down.

16 Q Now, you referred to the establishment of
17 Manchukuo, the recognition of Manchukuo, the date being
18 September 1932. Then about eight lines from the top
19 you say, "In July or so of 1933" the Dairen Conference
20 was held. Now, in between these two dates you put the
21 UMEZU-Ho Ying-ohin agreement. Do you suggest that
22 this Ho Ying-ohin-UMEZU agreement was made in between
23 these two dates?

24 A My recollection is not very clear on that mat-
25 ter, and I have no confidence in making any positive

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1 statement.

2 Q When did that Ho Ying-chin-UMEZU agreement
3 was made, could you recall?

4 A Not clearly, but my recollection is just
5 about that time.

6 Q Was the UMEZU-Ho Ying-chin agreement made in
7 1935?

8 A I have no clear and positive recollection.

9 Q Well, the prosecution is in possession of
10 abundant evidence to show you that this happened in
11 1935, and that was long after the Dairen Conference.
12 Does that refresh your mind?

13 A No.

14 Q Now, you stated in your affidavit that the
15 Ho Ying-chin agreement was made for the purpose of
16 solving all disputes between China and Manchukuo.
17 Now, what was the subject matter of this so-called
18 agreement?

19 A I am not familiar in detail with the subject
20 matter of the agreement, but at that time I had heard
21 of such an agreement.

22 Q You have stated so authoritatively that this
23 agreement was signed for the solution of all pending
24 issues between the two countries.

25 A I wrote about it because I had heard of such

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1 matters.

2 Q Now you say that it was intended to solve the
3 disputes between China and Manchukuo. Are you sure
4 that the two parties are China and Manchukuo?

5 A That is the way I understood the matter.

6 DR. NYI: The prosecution is in possession of
7 evidence which will prove that this subject matter
8 and the parties involved thereto are entirely contra-
9 dictory to the witness' statement.

10 THE PRESIDENT: That really is not by way of
11 explanation of your failure to press the cross-examination
12 further. You should not make those statements. They
13 are provocative and may lead to trouble.

14 DR. NYI: That concludes my cross-examination.
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FURUYAMA

1 THE PRESIDENT: Mr. Cunningham.

2 MR. CUNNINGHAM: Apparently there is no
3 redirect examination of this witness. There might be
4 after the prosecution introduces its other documents
5 on this question.

6 THE PRESIDENT: Well, you have no questions
7 on redirect.

8 MR. CUNNINGHAM: I ask that the witness be
9 excused on the usual terms.

10 THE PRESIDENT: He is excused accordingly.

11 (Whereupon, the witness was excused.)

12 MR. CUNNINGHAM: We next offer in evidence
13 defense document No. 378, being an excerpt from the
14 Tokyo Nichi-Nichi Shimbun of February 22, 1935,
15 reporting a speech of Wang Chao-Ming, Chief of the
16 Chinese Executive Yuan, delivered on February 20, 1935,
17 showing the cooperative attitude of Chinese leaders
18 subsequent to the Tangku truce toward a settlement of
19 the outstanding issues between the two countries.

20 THE PRESIDENT: Brigadier Quilliam.

21 BRIGADIER QUILLIAM: May it please the
22 Tribunal: In addition to our submission that this
23 document has no probative value, taking into account
24 its source, we submit that it is irrelevant and
25 immaterial. It appears to show that China was desirous

1 of having friendly relations with Japan. It appears.
2 to show nothing else. And it is submitted that it can
3 be of no assistance to the Tribunal in determining the
4 issues in this case. We therefore object to its
5 introduction.

6 THE PRESIDENT: Mr. Cunningham.

7 MR. CUNNINGHAM: I suggest that the source of
8 the information should not determine its admissibility,
9 but who says it and what is said should determine its
10 probative value. And the statements of this Chinese
11 executive should throw some light upon the controversies
12 which were in existence between the parties at the time.

13 THE PRESIDENT: Well, it seems very general,
14 Mr. Cunningham.

15 By a majority, the Tribunal upholds the
16 objection and rejects the document.

17 MR. CUNNINGHAM: We next offer in evidence
18 defense document 379, being also an excerpt from the
19 Tokyo Nichi-Nichi of February 22, 1935, reporting that
20 the Chinese National Government on February 20, 1935,
21 issued orders prohibiting anti-Japanese articles to all
22 newspapers and publishing firms in China in furtherance
23 of the policy outlined in the previous document.

24 THE PRESIDENT: Brigadier Quilliam.

25 BRIGADIER QUILLIAM: May it please the

1 Tribunal, as my learned friend has really read the
2 whole document, an objection at this stage appears to
3 be rather unnecessary.

4 THE PRESIDENT: Well, Brigadier Quilliam,
5 I advise you to take any objection that you think
6 ought to be taken, regardless of the action of counsel.
7 Counsel's attitude towards the Court this morning is
8 clearly offensive, his demeanor is objectionable; but
9 we are displaying great patience with him. He behaves
10 as no other counsel, no other American counsel, has
11 behaved before us. I refer now to his general
12 demeanor.

13 However, Brigadier, proceed to take any
14 objection you think you should take.

15 BRIGADIER QUILLIAM: May it please the
16 Tribunal, we object to this document, first of all, on
17 the ground that it has no real probative value. But
18 there is a more important ground, which is based on the
19 question of relevancy.

20 We respectfully submit that the fact, if it be
21 a fact, that there had been anti-Japanese publications
22 in Chinese is quite irrelevant to the consideration of
23 this case. It is assumed -- we are forced to assume --
24 that it is intended to show self-defense as a defense
25 to the charges. Presumably the object is to suggest

1 that if anti-Japanese articles are published, warlike --
2 military operations are justified. We submit that the
3 publication of articles or other anti-Japanese matters
4 can afford no justification to the defendants in
5 connection with the charges in this case; and, there-
6 fore, that the document should be rejected as irrelevant.

7 THE PRESIDENT: Mr. Cunningham.

8 MR. CUNNINGHAM: No comment on that document
9 further.

10 THE PRESIDENT: By a majority, the Court
11 upholds the objection and rejects the document.

12 We will adjourn until half-past one.

13 (Whereupon, at 1200 a recess was
14 taken.)

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1 AFTERNOON SESSION

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3 The Tribunal met, pursuant to recess, at 1330.4 MARSHAL OF THE COURT: The International
5 Military Tribunal for the Far East is now resumed.

6 THE PRESIDENT: Mr. Cunningham.

7 MR. CUNNINGHAM: I next offer in evidence
8 defense document No. 38, being the ordinance for the
9 promotion of international amity issued by the govern-
10 ment of China, June 10, 1935, in furtherance of a
11 policy of cooperation between China and her neighbors.

12 THE PRESIDENT: Brigadier Quilliam.

13 BRIGADIER QUILLIAM: May it please the
14 Tribunal, in our submission this document is on all
15 fours with defense document 378 which was rejected
16 by the Tribunal this morning. It merely expresses
17 in quite general language the desire of the Chinese
18 Government for peaceful relations with other countries.
19 It is submitted that it can be of no assistance to the
20 Tribunal in determining the issues in the case and
21 the prosecution objects to its introduction.22 MR. CUNNINGHAM: This document shows that
23 some of the accused were in office at the time, were
24 carrying on peaceful relations with China, and it has a
25 direct bearing upon the testimony and the documentary

1 evidence which will follow.

2 THE PRESIDENT: By a majority the Court
3 overrules the objection and admits the document.

4 CLERK OF THE COURT: Defense document No. 38
5 will receive exhibit No. 2506.

6 (Whereupon, the document above
7 referred to was marked defense exhibit
8 No. 2506 and received in evidence.)

9 MR. CUNNINGHAM: Omitting the formal parts:

10 "(June 10, 1935)

11 "National Government Ordinance

12 "As immediate means to ensure the inde-
13 pendence of our country it is essential that internally
14 we administer the affairs of State with fairness,
15 quicken the advance of culture, and enhance the
16 national strength, while international good faith
17 should be faithfully kept and international peace
18 should be established in harmonious cooperation with
19 other countries. Above all it is of urgent importance
20 to promote friendly relations with our immediate
21 neighbors.

22 "In obedience to the repeated admonitions of
23 the Central Government, our people should endeavor to
24 cultivate a close friendship with our allies and
25 strictly refrain from such speech and acts as will

1 incite agitation and ill feeling against the allied
2 nation(s). Especially we decree that no organization
3 shall be borned that will interfere with amicable
4 relationship with our allies. Those who act contrary
5 to this decree shall be severely punished.

6 "We hereby issue this Ordinance."

7 We next offer defense document No. 1087, the
8 address of Foreign Minister ARITA at the 69th session
9 of the Diet on May 6, 1936. It has been our practice
10 to introduce the foreign policy statements of previous
11 years in order to show Japan's policy of meeting the
12 situations as they arose.

13 THE PRESIDENT: Brigadier Quilliam.

14 BRIGADIER QUILLIAM: May it please the
15 Tribunal, this is the address delivered in the Diet
16 of Foreign Minister ARITA, who is not a defendant.
17 It is submitted that it is a self-serving statement
18 which possesses no probative value or relevancy. The
19 prosecution objects to the introduction of this docu-
20 ment on the same ground that it has objected to the
21 introduction of similar documents.

22 MR. CUNNINGHAM: I wish to submit that this
23 document is different than some of the others, per-
24 haps. This is a speech by -- an address by Minister
25 ARITA and since in the Indictment the prosecution has

1 charged divers other persons we must submit the
2 general policy of the Japanese Government in order
3 to answer the issues which have been raised by these
4 specific charges, and I might suggest that this
5 Foreign Minister, ARITA, was a member of the cabinet
6 of which the other members, the accused, were sup-
7 posed to have dominated.

8 THE PRESIDENT: By a majority the objection
9 is overruled and the document admitted.

10 CLERK OF THE COURT: Defense document
11 No. 1087 will receive exhibit No. 2507.

12 (Whereupon, the document above
13 referred to was marked defense exhibit
14 No. 2507 and received in evidence.)

15 MR. CUNNINGHAM: (Reading)

16 "THE ADDRESS OF MR. HACHIRO ARITA, MINISTER
17 FOR FOREIGN AFFAIRS, AT THE 69th SESSION OF THE
18 IMPERIAL DIET, MAY 6, 1936.

19 "Having assumed the responsibility of
20 conducting our foreign affairs in these eventful
21 times both at home and abroad, I have the honor today
22 of stating my views concerning the foreign policy of
23 Japan.

24 "To insure the stability of East Asia,
25 contributing thereby to the cause of world peace, and

1 at the same time to promote the happiness and welfare
2 of mankind by upholding firmly international justice,
3 has always been our national policy. And in the
4 execution of this policy it should be, I believe,
5 the guiding spirit of our diplomacy to seek the
6 security and development of our national life as
7 well as to work for concord and cooperation among
8 all the nations and especially to maintain, upon the
9 basis of our special and inseparable relationship
10 with Manchoukuo, our position as the stabilizing
11 force in East Asia.

12 "Under such a policy animated by such a
13 spirit, we shall of course be independent and posi-
14 tive in dealing with various international questions.
15 On the other hand, we must take care not to impair
16 the honor and dignity of Japan as a great Power but
17 strive assiduously to conform to the august wishes
18 of our Sovereign by cultivating, as is set forth in
19 the Imperial Rescript issued at the time of Japan's
20 withdrawal from the League of Nations, 'mutual confi-
21 dence between Our Empire and all the other Powers
22 and make known the justice of its cause throughout
23 the world.'

24 "Nowadays there prevails all over the world
25 an atmosphere of dissatisfaction and unrest; and

1 tendencies are rife everywhere that are threatening
2 to the preservation of peace. We must first of all
3 eliminate the causes that underlie this atmosphere
4 of unrest and dissatisfaction if we are to insure the
5 peace of the world. While it is only natural that
6 all nations should try to safeguard their own inter-
7 ests, excess of ardor in that attempt often leads a
8 country to disregard the position of others. This is
9 one of the prime causes of the universal unrest
10 today. One cannot but hope that the statesmen of the
11 world will give serious thoughts to this point as
12 they address themselves to the task of readjusting
13 international relations, political and economic.

14 "With these preliminary remarks I shall now
15 speak on our relations with the Powers.

16 "We desire for the sake of the peace of East
17 Asia the maintenance of normal and peaceful relations
18 between Japan and Manchoukuo on the one hand and the
19 USSR on the other. It is scarcely necessary to say
20 that neither Japan nor Manchoukuo harbors any aggres-
21 sive designs. That there should occur, nevertheless,
22 incidents, such as have so frequently occurred in
23 recent months, along the frontiers both between
24 Manchoukuo and the Soviet Union and between Manchoukuo
25 and Outer Mongolia, is most regrettable. Our

1 Government have already called the attention of the
2 Soviet authorities to the fact that wanton resort to
3 arms on a dogmatic assumption that a trespass has
4 been committed upon their territories, where there
5 exists no clear border demarcation, can serve no
6 useful purpose and only injure the friendly relations
7 between the nations concerned. I take this occasion
8 to emphasize this point again most strongly. The
9 Japanese Government, after consultation with the
10 Government of Manchoukuo, proposed in the middle of
11 March last a plan for taking proper and effective
12 measures for the clarification of the border line all
13 along the Soviet-Manchoukuo frontier, and, simulta-
14 neously, for setting up an organ for the peaceful
15 solution of all border disputes. We proposed to put
16 this plan into execution, beginning with the zone
17 between Lake Khanka and the Tumen River on the eastern
18 frontier where disputes have been most frequent. And
19 in view of the fact that nearly all of the recent in-
20 cidents have taken place in this region, it was thought
21 that our practical proposal would speedily be accepted
22 by Government of the Soviet Union. Now that they have
23 indicated their concurrence with our views, I hope that
24 discussions of concrete questions will begin in due
25 course.

1 "Direct negotiations are now in progress
2 between Manchoukuo and Outer Mongolia. Along with
3 the progress of these negotiations it is, I am told,
4 the intention of the Government of Manchoukuo to
5 solve amicably the various pending questions and to
6 establish good neighborly relations with Outer
7 Mongolia. It is hoped that these direct negotiations
8 will result in an early solution of all questions,
9 and particularly in the exchange of" -- that word is
10 gone in my copy; well, skip a word -- "representatives
11 between Manchoukuo and Outer Mongolia.

12 "As may be surmised from what I have said
13 so far, the present relations between Japan and the
14 Soviet Union cannot be said to be altogether felicitous.
15 The fundamental cause of this unfortunate state of
16 things lies, if I may say so frankly, in the lack of
17 comprehension on the part of the Soviet statesmen of
18 Japan's position in East Asia, coupled with their
19 baseless fears and suspicions. The fact that the
20 Soviet Union maintains excessive armaments at her
21 remote outposts in the Far East constitutes a real
22 menace to peace in this part of the world. I desire
23 to state definitely on this occasion that Japan in her
24 solicitude for the peace of East Asia cannot remain
25 indifferent to that fact.

1 "As regards Manchoukuo, we are pursuing our
2 immutable policy which is rooted in the inseparable
3 relationship between our two countries, and aims
4 consistently at the establishment of normal tri-
5 partite relations among Japan, Manchoukuo and China.
6 While we continue to assist as much as possible in
7 the economic development of Manchoukuo, we are also
8 making preparations for carrying out step by step
9 the abolition of extraterritoriality and the adjustment
10 and transfer of the administrative rights in the
11 South Manchuria Railway zone.

12 "With China we are to proceed with negotia-
13 tions on the basis of the three principles expounded
14 at the last session of the Diet by the then Foreign
15 Minister, Mr. HIROTA. Only it is essential in order
16 to expedite these negotiations that the Chinese
17 authorities should take a truly broad view of the
18 situation in East Asia and enter upon them with a
19 firm resolve. It is very unfortunate that apparently
20 China as yet has not come to a full decision. However,
21 in the face of the obvious and imperious necessity of
22 adjusting Sino-Japanese relations in the interest not
23 only of the two countries but also of the peace of
24 East Asia, it is our intention to urge the Chinese
25 Government to make up their mind and at the same time

1 to do everything possible on our part to bring about
2 the readjustment of our relations along all lines.
3 The Japanese Government are greatly concerned over
4 the inroads of the communist influence into East Asia.
5 It is reported that a part of the main force of the
6 Red armies, that moved into Shensi from Szechuan
7 sometime ago, has recently invaded Shansi, and is
8 still active in that province. Moreover, in view of
9 the likelihood that they may march on northwards at
10 any favorable moment, we are watching the develop-
11 ments with particular attention.

12 "On the 22d of January last King George V
13 passed away -- an illustrious monarch, universally
14 loved and admired for his wisdom and the rare person-
15 ality which, during his long reign of twenty-five
16 years, enabled him to guide his people through great
17 trials, including the World War. The new King, Edward
18 VIII, who once visited Japan, is thoroughly conversant
19 with the intricacies of the international situation.
20 I desire to express our country's best wishes that the
21 British Empire may prosper as ever under His Majesty's
22 rule, and our confident hope that the traditional
23 friendship of our two countries will continue to grow.
24 There are a number of questions in various parts of
25 the world, which affect our mutual interests and which

1 await settlement in one way or another. However,
2 if the two countries, keeping in mind their old
3 friendship and their common responsibilities toward
4 world peace, give full consideration to each other's
5 special needs, the adjustment of their interests
6 should not, I believe, prove too difficult.

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1 "In Japanese-American friendship lies the
2 very key to the maintenance of peace in the Pacific.
3 It is most fortunate that not only are the economic
4 relations of the two countries complementary, but
5 their mutual understanding is being steadily
6 deepened. I believe that the two nations, always
7 respecting each other's position and aims, should
8 collaborate more and more for insuring the peace
9 of the Pacific. I shall devote my best efforts to
10 the furtherance of Japanese-American amity and
11 understanding.

12 "In the field of international trade the
13 tendency is more in evidence than ever among many
14 countries abroad to attempt the exclusion of foreign
15 products under one pretext or another, or to form
16 the so-called economic blocs, heavily armed with
17 weapons of trade war. If this tendency is left un-
18 checked, it will, as has always been pointed out by
19 our Government, serve only to aggravate the world-
20 wide depression, ultimately paralyzing international
21 commerce and shattering the economic life of all
22 peoples. We have taken every available occasion
23 to urge upon those countries the abolition of their
24 economic armaments as the true and only means of
25 saving the world from the throes of economic

1 depression, of realizing the common prosperity and
2 happiness of all peoples and of promoting peace in
3 the world. However, I regret to say that our just
4 claims have not been accepted by most countries,
5 which are expanding the scope of their obstructive
6 measures against trade more widely than ever -- in
7 some cases apparently for the sole purpose of ex-
8 cluding Japanese goods. This is a serious matter
9 for our nation, which cannot sustain its economic
10 life except by securing abroad a supply of raw
11 material and a market for finished products. We
12 shall have to continue our efforts by friendly
13 means for the mitigation or abolition of economic
14 armament. But should the conditions fail to improve
15 despite our endeavors, we might be compelled to
16 adopt the necessary measures in order to meet the
17 situation. Even then, we would, of course, have no
18 other end in view than that of causing the Powers
19 concerned to reconsider their policies and of plac-
20 ing international trade relations in a free and
21 wholesome atmosphere.

22 "Finally, I should like to say a few words
23 on international cultural relations. The knowledge
24 and appreciation of one another's culture and civili-
25 zation is essential for promoting amity and good

1 understanding among nations. Since 1934 the Japanese
2 Government have given their support to the inaugura-
3 tion of various international cultural enterprises
4 and have encouraged their expansion, besides carry-
5 ing on as hitherto the activities in China of the
6 Cultural Work Bureau. As a result, a marked growth
7 of interest in the study of things Japanese has been
8 recently seen abroad. We shall continue to foster
9 the enterprises in this field in order to advance the
10 cause of international understanding and human well-
11 being. It is also our plan to improve and expand
12 the various facilities and institutions now under the
13 auspices of the Cultural Work Bureau for fostering
14 cultural cooperation among Japan, Manchoukuo and
15 China, and for contributing to the advancement of
16 the world's civilization through the dissemination
17 of the noble and profound culture of the Orient.

18 "The recent unfortunate incident in Tokyo
19 seems to have shocked the whole world. But for the
20 august virtue of our Sovereign and the spirit of
21 loyalty and solidarity manifested by our people on
22 that occasion, Japan's foreign relations might have
23 suffered untoward consequences. I firmly believe
24 that our people in all walks of life should, with a
25 full grasp of the international situation, work

1 together with courage and determination if we are
2 to surmount the difficulties now before us and to
3 put into execution the national policy of our
4 empire. Let me rely upon your earnest and whole-
5 hearted cooperation while I, on my part, will do
6 all in my power to fulfill the responsible duties
7 of my post."

8 MR. BROOKS: Mr. President, in exhibit
9 2506, defense document 38, the second paragraph,
10 there is apparently an error in translation, sir.
11 I would like to have the second paragraph referred
12 to the Language Section. The words are in lines 3,
13 5, and 7 in that, in relation to "our allies." I
14 think the word are "neighboring countries." It
15 wouldn't make good sense otherwise. One of my
16 interpreters said it was "friendly nations." One
17 of the Language Section said he thought it was
18 "neighboring countries," and that he would check on
19 it further if referred to him.

20 THE PRESIDENT: Major Moore will advise us.
21 Mr. Cunningham.

22 MR. CUNNINGHAM: We now offer defense
23 document No. 213, a part of the address of Prime
24 Minister and Foreign Minister of Japan, dated 15
25 February 1937, describing the official attitude of

1 the Japanese leaders and government toward inter-
2 national problems. This document shows that the
3 Japanese Government officials were only adopting
4 a policy to meet the problems as they arose and to
5 keep the peace. It is more or less a report on the
6 state of the nation at that date.

7 THE PRESIDENT: Admitted on the usual terms.

8 CLERK OF THE COURT: Defense document
9 No. 213 will receive exhibit No. 2508.

10 (Whereupon, the document above
11 referred to was marked 'defense exhibit
12 No. 2508 and received in evidence.)

13 MR. CUNNINGHAM (Reading):

14 "PART OF THE ADDRESS OF THE PRIME MINIS-
15 TER AND FOREIGN MINISTER, MR. SENJURO HAYASHI,
16 BEARING ON THE GOVERNMENT'S FOREIGN POLICY, AT THE
17 SENENTIETH SESSION OF THE DIET, FEBRUARY 15, 1937.

18 "Now turning to our foreign affairs, I
19 wish to say that the Government will pursue in the
20 spirit of international justice a national policy,
21 embodying the unanimous will of the nation, in
22 order to secure the stability of East Asia and to
23 promote the common prosperity of all nations and
24 to brighten thereby the horizon of our international
25 relations. To that end we will further strengthen

1 our intimate and inseparable relations with Man-
2 choukuo, and pay special attention to the adjustment
3 of our relations with China and Soviet Union.

4 "As regards China, it is to be deeply
5 regretted that despite our efforts in the past to
6 act in concert with that country for the purpose
7 of ensuring stability in East Asia, the Chinese
8 Government have as yet failed to understand fully
9 our true intentions, and there have risen a number
10 of problems between the two countries. I believe
11 that it is of urgent necessity at this juncture
12 to cultivate cordial feelings between the two
13 nations and to improve their relationship so that
14 they may be brought to work in close cooperation
15 for the peace and stability of East Asia. And for
16 this purpose we must foster mutual appreciation and
17 bring about closer contact not only between the two
18 governments but also the two peoples and achieve in
19 more concrete form cooperation and mutual assistance
20 of the two countries. No matter what obstacles
21 there may be, we are resolved to surmount them and
22 to effect the adjustment of the relations between
23 the two countries.

24 "For the sake of the peace of the Orient
25 it is of course necessary that the Soviet Union

1 should correctly comprehend Japan's position in East
2 Asia and that both the Soviet Union and Japan should
3 seek to establish harmonious relations. To speed
4 the negotiations on the pending issues toward an
5 amicable settlement is to contribute to the accom-
6 plishment of this end. I wish therefore to urge
7 upon the authorities of the Soviet Union to take a
8 broad view and cooperate with us in that regard.

9 "A short time ago our Government concluded
10 with the German Government an agreement guarding
11 against the menace of the Comintern. This was a
12 timely measure as well as one of imperative necessity
13 for Japan to take in the light of the rampant activi-
14 ties of the Comintern throughout the world, espe-
15 cially in East Asia in recent times. The Govern-
16 ment will try not to err in the execution of the
17 agreement but will do their utmost to secure best
18 results therefrom.

19 "Japan's policy of promoting friendship
20 with Great Britain and the United States is immutable.
21 Between the former country and ours there exist
22 questions of various sorts requiring adjustment.
23 But none of them is of such character as will impair
24 the foundations of the Anglo-Japanese friendship.
25 I firmly believe that they will be solved through

mutual understanding.

1 "As for the naval disarmament problem,
2 Japan from this year on is not a party to any
3 limitation treaty. However, it is needless to say
4 that there shall be no change in our policy of
5 strict adherence to the principle of non**non**ace
6 and nonaggression.

7 "Finally, one of the indispensable con-
8 ditions of Japan's national development is the
9 expansion of the foreign trade, of which the need
10 is now particularly urgent in view of the present
11 economic situation of our country. The Government
12 will do everything to eliminate whatsoever obstacles
13 against the foreign trade of Japan, and take appro-
14 priate steps to expand its volume.

15 "The execution of these varied programs
16 of our foreign policy will require the united
17 strength of the entire nation, without which it
18 will be impossible to obtain the desired results.
19 I avail myself of this occasion to ask for your
20 support and cooperation."
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1 We now offer defense document No. 1042
2 which is a statement of the Japanese government's
3 reasons for refusal to participate in Brussels
4 conference. The reasons were given on 27 October,
5 1937. It has been charged by prosecution that Japan
6 refused to take part in Brussels conference, and
7 there has been no showing and no evidence to show
8 the reasons why Japan refused and this document
9 is offered for this purpose.

10 THE PRESIDENT: Brigadier Quilliam.

11 BRIGADIER QUILLIAM: May it please the
12 Tribunal, this document is already in evidence and
13 is part of exhibit No. 63, being the report of the
14 Conference of Brussels in 1937.

15 MR. CUNNINGHAM: I will check that, but I
16 don't believe that part of the document was read, so
17 it will be immaterial whether or not it was already
18 introduced.

19 THE PRESIDENT: It appears to be on page 11.
20 I am not sure though; it needs careful reading. It
21 is dated 28 October in the exhibit already tendered,
22 No. 63. It appears at page 11. Whether it is word
23 for word the same, I do not know, but I assume it is.
24 If this part of exhibit 63 was not read you are at
25 liberty to read it now, Mr. Cunningham.

1 MR. CUNNINGHAM: I feel quite sure it hasn't
2 been read, your Honor, because it is favorable to
3 the Japanese point of view on the matter.

4 THE PRESIDENT: Well, I suppose you will
5 read this part of exhibit 63 and withdraw the document
6 you tendered.

7 MR. CUNNINGHAM: Well, I will withdraw
8 the document 1042 then, and ask that I be permitted
9 to read from prosecution's exhibit 63. (Reading):

10 "October 27, 1937.

11 "The Japanese Government, having replied
12 to the invitation of the Belgian Government to the
13 Conference" --

14 THE MONITOR: Just a minute, Mr. Cunningham.
15 We don't have exhibit 63 on hand, so we will read
16 from this document, if it is the same thing. Is it?
17 I mean we can read from that document.

18 MR. CUNNINGHAM: Yes, I believe it is. We
19 will check as we go along if there are any differences.

20 "The Japanese Government, having replied
21 to the invitation of the Belgian Government to the
22 Conference of the Signatories of the Nine-Power
23 Treaty of 1922, take this opportunity of making
24 public at home and abroad a statement of their views.

25 "1. China has witnessed the rise and fall

1 of countless regimes since the Revolution of 1912,
2 but her foreign policy has been consistently one of
3 anti-foreignism. Especially since 1924, when the
4 Kuomintang set up the Nationalist Government in
5 Canton and entered into alliance with the Communists
6 as a means of winning control of the central admin-
7 istration, the anti-foreign policy began to be pursued
8 with unprecedented vigor and ruthlessness, and
9 anti-foreign sentiments were kindled ablaze among
10 the populace. The memory is still fresh of the way
11 in which foreign Powers, one after another, were
12 victimized and deprived of their vested rights and
13 interests. It happens that Japan has been made for
14 the past ten years the principal target of this
15 anti-foreign policy of China.

16 "Japan has always striven to promote friend-
17 ship and cooperation among the nations of East Asia,
18 in the firm conviction that therein lies the key
19 to the stability of that region. Japan welcomed the
20 deepening of Chinese national consciousness which
21 followed upon the Revolution, believing that it
22 would conduce to intimate Sino-Japanese collaboration,
23 and she adopted the policy of meeting the legitimate
24 national aspirations of China to the utmost possible
25 extra-territoriality. Japan, thus cultivating

1 China's good-will, looked patiently and eagerly
2 forward to a favourable response that would consort
3 with her ideal of friendship and cooperation." --
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1 THE PRESIDENT: You left out the sentence
2 before that, according to this exhibit.

3 MR. CUNNINGHAM: Did I leave out a sentence?
4 Did I leave out a sentence?

5 THE PRESIDENT: According to the exhibit that
6 I have, yes. I will read it:

7 "For instance, in 1926 Japan took the lead
8 in assisting China to recover her customs autonomy,
9 and took a firm stand in favor of China on the question
10 of the abolition of extraterritoriality."

11 MR. CUNNINGHAM: (Reading)

12 "Japan, so cultivating Chinese good-will,
13 looked patiently and eagerly forward to a favorable
14 response that would consort with her ideal of friend-
15 ship and cooperation. However, China showed no signs
16 of appreciation of this sympathetic attitude on the part
17 of Japan. On the contrary, she hoisted still higher
18 the banner of anti-Japanism, and seemed resolved to
19 annihilate all Japanese rights and interests in China.

20 "The Nanking Government employed anti-Japanism
21 as a convenient tool in domestic politics for the
22 mobilization of public opinion in support of their
23 regime, and resorted to the unheard-of tactics of
24 making it the foundation of moral education in the
25 army and in the schools, so that even innocent children

1 and youths were taught to look upon their friendly
2 neighbor country as an enemy. As a result, not only
3 were the peaceful trade and economic activities of
4 Japan interrupted, but even the very lives of Japanese
5 nationals were jeopardized.

6 "This anti-Japanese campaign finally took
7 the form of organized terrorism as in the cases of the
8 killing of a Japanese bluejacket at Shanghai in
9 November 1935 and of the subsequent murderous attacks
10 upon Japanese subjects at Swatow, Chengtu, Pakhoi,
11 Hankow and Shanghai, and the bombing of Japanese
12 residents at Changsha and Swatow.

13 "In the face of the alarming situation,
14 Japanese Government remained calm and forbearing.
15 Urgent demands were repeatedly made upon the Nanking
16 Government for the reversal of their disastrous policy,
17 but to no avail. Then, towards the end of last year,
18 there occurred the Sian incident, in which General
19 Chiang Kai-shek was held captive for some days. Though
20 the exact circumstances surrounding that sensational
21 incident remain a mystery, it is an indisputable fact
22 that shortly afterwards Communist elements, gaining
23 the ascendancy in the Nanking Government, began to con-
24 duct campaigns of disturbance in North China and
25 Manchukuo under the banner of the 'Anti-Japanese

1 People's Front', which finally led to the Lukouchiao
2 incident of July 7 of this year, in which Japanese
3 soldiers were unlawfully fired upon by Chinese troops
4 in the outskirts of Peking."

5 THE PRESIDENT: Well, what you are reading
6 is the same as I have but I understand two Members or
7 three Memembers of the Court have a different version.

8 MR. CUNNINGHAM: This is document No. 1042.

9 THE PRESIDENT: And you and I have the docu-
10 ment that was given to the Conference of Brussels
11 and we should have the correct document. What you
12 are reading from I don't know, but it is the same as
13 mine with the exception of the one sentence which I
14 read, and mine is the official document.

15 MR. CUNNINGHAM: Well, I am reading from
16 exhibit 63, the same thing, I believe, you are reading
17 from except maybe I missed a sentence.

18 THE PRESIDENT: The interpreters, of course,
19 are reading from the document you proposed to tender.
20 Not from the official document. So the accused are
21 hearing what is not the official document.

22 THE MONITOR: Mr. President, may I make a
23 comment. The Japanese document, being the original,
24 is correct. The English copy of this does not match
25 with what Mr. Cunningham is reading, but the Japanese

1 version seems to be correct, sir.

2 THE PRESIDENT: The Japanese is not the
3 original. The original is with the Brussels Conference
4 but it is no doubt a copy of the original.

5 MR. CUNNINGHAM: This is a distorted copy.
6 I don't know.

7 THE PRESIDENT: Where the records of the
8 Brussels Conference are kept, I don't know. I take
9 it in Washington.

10 MR. CUNNINGHAM: Why don't I switch back on
11 No. 2 here on the Japanese version in order to --
12 because that is the version I want to present if there
13 is some difference. That is the one the translators
14 have.

15 THE PRESIDENT: The only way to solve this
16 is to get the original document which the Brussels
17 Conference had. Where that is kept, we don't know.
18 But the document you and I are reading should be the
19 correct one, I take it. Still the accused are not
20 hearing that; they are hearing another document.

21 MR. CUNNINGHAM: Well, I believe the trans-
22 lators have the official translation of this exhibit 63.
23 If they can be given a minute to pick it up, perhaps
24 it would save us time.

25 THE MONITOR: Just a minute while we look

1 for it. Mr. Cunningham, can you give us the prosecution
2 document number on that 63?

3 MR. CUNNINGHAM: It looks like 35, document
4 35. Prosecution's exhibit 63.

5 THE MONITOR: It will take a couple of minutes
6 to get the document from our files downstairs, sir.

7 THE PRESIDENT: How long will it take?

8 THE MONITOR: It will take two or three
9 minutes, sir.

10 THE PRESIDENT: Has the whole of 63 been
11 translated?

12 MR. CUNNINGHAM: I presume so, but I am not
13 sure.

14 THE PRESIDENT: It is tendered in English, you
15 see, and there would have been a Japanese copy of it,
16 I suppose, but who has a Japanese copy?

17 The Member from New Zealand points out that
18 actually what has occurred is that you have omitted
19 from your document 1042 a considerable part of the
20 official document being part of exhibit 63. What you
21 have done is you have omitted the last seven lines
22 on page 11 of exhibit 63, and the whole of page 12.

23 MR. BROOKS: In preparing this, your Honor,
24 I was just pointing out to counsel there is no numbered
25 paragraph 2 in document 1042 that was offered, and

1 there has been an error, possibly, in processing it
2 and that number doesn't even appear on there. There
3 has been quite a bit skipped in there.

4 THE PRESIDENT: With this noting which I
5 have made with the assistance of the Member from
6 New Zealand, you should now proceed to read from
7 page 13 of that document and you will have covered
8 everything that you proposed to tender. If you read
9 from the words "A belligerent spirit" to the end you
10 will cover everything you proposed.

11 MR. CUNNINGHAM: Continuing to read on
12 page 13 of prosecution exhibit 63.

13 THE MONITOR: Mr. Cunningham, we don't have
14 the original in English nor the Japanese. The
15 Japanese is being fetched. We can't seem to find the
16 Japanese copy, sir. We had it this morning but it is
17 misplaced some place. We didn't know you were going
18 to use it, sir.

19 THE PRESIDENT: They must have your document
20 1042.

21 MR. CUNNINGHAM: That is right.

22 THE PRESIDENT: Your document 1042 is the
23 same as the official document is, as Mr. Cunningham
24 and I are reading.

25 THE MONITOR: We haven't the Japanese document

1 Will you hold it a minute until we find the place?

2 What line, sir. What does it start with?

3 MR. CUNNINGHAM: "A belligerent spirit towards
4 Japan."

5 THE MONITOR: Just a minute, please. It will
6 take a few minutes to find that.

7 MR. BROOKS: It is the fourth line on page 2
8 of defense document 1042 in the English copy.

9 THE PRESIDENT: Read from there on.

10 MR. CUNNINGHAM: A belligerent spirit towards
11 Japan came to prevail --- "

12 THE MONITOR: Will you hold it a minute, sir
13 We have to find the place yet.

14 The Japanese translation of that prosecution
15 document, that is, exhibit 63, doesn't carry the trans-
16 lation of that section. It just has it here as
17 Annex 1, the reply by the Japanese Government. In
18 other words, it is in some annexed document that we
19 don't have on hand. And the same word in your docu-
20 ment 1042 is not translated in the Japanese version
21 of it. In other words: "She hoisted still higher
22 the estimate upon their country's fighting power."
23 The next sentence in the Japanese is not, "A belliger-
24 ent spirit," and so forth, but something else. It
25 starts out with some other place.

1 THE PRESIDENT: I think you had better post-
2 pone reading this and get on to the next document.

3 MR. CUNNINGHAM: I will come back when we
4 get the translation to that point where we left off
5 in the document before.

6 We next offer defense document No. 1186,
7 the talk of the Chief of the Information Bureau of
8 the Foreign Office concerning the abandonment of
9 cooperation with every organ of the League of Nations,
10 dated 2 November 1938. The Tribunal will recall that
11 the prosecution adduced evidence on this point by
12 exhibit 1166.

13 THE PRESIDENT: Brigadier Quilliam.

14 BRIGADIER QUILLIAM: May it please the
15 Tribunal, this is a press release issued by the Chief
16 of the Information Bureau, and the prosecution object
17 to its being introduced into evidence on the same
18 grounds as have been successfully urged in connection
19 with other press releases.

20 MR. CUNNINGHAM: I submit that this is a
21 little different than what the prosecution has objected
22 to in the other documents. It is a discussion by
23 the Chief of the Information Bureau, one of the
24 responsible parties of the Japanese Government, and
25 in the past it seems as though the expressions of the

1 chiefs of departments of the Japanese Government
2 have been accepted as evidence in this case on certain
3 issues. My associate suggests that perhaps the Chief
4 of the Information Bureau was one of the divers other
5 persons who are named in the Indictment and for whose
6 acts the defendants are being held responsible.

7 THE PRESIDENT: By a majority the Tribunal
8 upholds the objection and rejects the document.

9 I would like the Interpreting Section to
10 look again to see whether they have that part in
11 Japanese which they say they haven't in defense
12 document 1042.

13 THE MONITOR: Yes, sir. Do you mean "A
14 belligerent spirit towards Japan"?

15 THE PRESIDENT: Yes.

16 THE MONITOR: Mr. President, the Japanese
17 is accurately translated up to the point, to the second
18 line reading, "However, China showed no signs of
19 appreciation of this sympathetic attitude on the part
20 of Japan. On the contrary. . . ." Up to there the
21 Japanese is accurate. From there, instead of, "She
22 hoisted still higher the estimate upon their country's
23 fighting power," the Japanese version has instead,
24 "China, still further hoisting the weapon of anti-
25 Japanism, showed the intention that they will not

1 stop until the interest of the Japanese Empire is
2 destroyed in China." That is the way it is trans-
3 lated, sir. So the "belligerent spirit" does not
4 appear on the Japanese version, sir.

5 THE PRESIDENT: The document is obviously
6 full of errors. We are trying to straighten out an
7 impossible tangle. It is most undesirable to have
8 the document split into two parts so we invite you
9 to read exhibit 63 after it has been translated into
10 Japanese. That is to say, so much of exhibit 63 as
11 you think fit, Mr. Cunningham. We leave it to you.
12 But until we have a translation of it it is useless.
13 We can't do anything.

14 To enable this matter to be straightened out,
15 we will recess now for fifteen minutes.

16 (Whereupon, at 1445, a recess was
17 taken until 1500, after which the proceedings
18 were resumed as follows:)
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1 MARSHAL OF THE COURT: The International
2 Military Tribunal for the Far East is now resumed.

3 THE PRESIDENT: Mr. Cunningham.

4 MR. CUNNINGHAM: In order to get the trans-
5 lation started, I'll start with the third paragraph
6 where it says "Japan has always striven," in order to
7 complete the thought.

8 "Japan has always striven to promote friend-
9 ship and cooperation among the nations of East Asia,
10 in the firm conviction that therein lies the key to
11 the stability of that region."

12 THE PRESIDENT: Well, now, we're not so
13 clear --

14 THE MONITOR: Are we supposed to follow
15 that, Mr. Cunningham? We didn't know you were read-
16 ing. Do you want us to read that over the IBM?

17 MR. CUNNINGHAM: Yes.

18 THE MONITOR: Please give us notice. We
19 didn't know that.

20 THE PRESIDENT: It has been read already.
21 Well, we all think these documents should be checked
22 before they are read to the Court. In fact, we as-
23 sumed they were checked.

24 MR. CUNNINGHAM: Well, that I have to leave
25 to someone else, your Honor, because I cannot do it

1 myself; I don't know anything about Japanese. And,
2 therefore, I have to take what is represented to me.

3 Starting with the paragraph, "Japan has
4 always striven to promote friendship" --

5 THE MONITOR: You are reading from 63, are
6 you not?

7 MR. CUNNINGHAM: That's right.

8 THE MONITOR: Mr. Cunningham, there is no
9 Japanese translation attached to exhibit 63. May the
10 Language Section read from exhibit 1042?

11 THE PRESIDENT: Captain Brooks.

12 MR. BROOKS: I checked on this with the
13 Language Section, and the defense document 1042 in
14 Japanese is a correct translation of prosecution's
15 exhibit 63 of this statement. The error was only
16 made in the English of defense document 1042. That
17 is why Mr. Cunningham is reading from exhibit 63 of
18 the prosecution, although the translation is being
19 made from the Japanese translation of defense docu-
20 ment 1042, the same document which was checked over
21 the recess by the Language Section, and they are
22 identical.

23 THE PRESIDENT: If that is so, the interp-
24 reters read in Japanese all that you, Mr. Cunningham,
25 read in English from exhibit 63.

1 MR. CUNNINGHAM: That took me down to "Peking"
2 on page 12.

3 THE PRESIDENT: Proceed from there, from
4 reading exhibit 63, on the assumption and with the
5 assurance that the Japanese interpreters are reading
6 the same matter.

7 MR. CUNNINGHAM: Reading paragraph two on
8 page 12:
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1 " Upon the occurrence of the Lukouchiao
2 incident the Japanese Government, desirous of avert-
3 ing possible Sino-Japanese crisis, immediately for-
4 mulated a policy of non-aggravation and local settle-
5 ment, and devoted their best efforts towards bring-
6 ing about an amicable solution, in spite of the
7 intolerable situations that were created, one after
8 another, by the Chinese on the spot.

9 " On the other hand the Nanking Government,
10 in violation of the UMEZU-Ho agreement, moved north
11 the vast forces under their direct command, to
12 threaten the Japanese garrisons, and also instiga-
13 ted local Chinese armies against Japan. The situa-
14 tion was thus aggravated until a general clash be-
15 tween the two countries became inevitable.

16 " It should be recalled that the Nanking
17 Government, which employ anti-Japanism as an instru-
18 ment of internal unification, had been conducting
19 for some years a militaristic propaganda aimed at
20 Japan, and that at the same time, by importing vast
21 quantities of munitions, constructing fortifications,
22 and giving intensive training to the troops, she had
23 succeeded in building up strong armaments, so that
24 their military men grew overconfident of their own
25 strength and the people themselves were deluded into

1 putting an exaggerated estimate upon their coun-
2 try's fighting-power.

3 "A belligerent spirit towards Japan came
4 to prevail throughout the land. Long before the
5 present outbreak, Chinese newspapers and magazines
6 were accustomed to call Japan the 'enemy country'
7 and the Japanese their enemies. At the time of the
8 Lukouchiao incident -- the Nanking Government being
9 driven to action against Japan by the internal situa-
10 tion they themselves had created -- Japan's cautious
11 attitude and her policy of local settlement were both
12 doomed to utter failure.

13 "With aggravation of the situation all
14 Japanese residents, not only in North China but also
15 in Central and South China, became exposed to
16 imminent danger, and were compelled to evacuate en
17 masse, abandoning the enterprises that they had
18 toilsomely built up during long years in the past.
19 At the same time, the Chinese in Shanghai, in
20 contravention of the 1932 truce agreement, secretly
21 set out to construct military works in the demili-
22 tarized zone and to perfect their war preparations.
23 Accordingly in June last the Japanese Government
24 made a request for a special conference of the
25 powers concerned, and called the attention of the

Chinese Government to the matter.

1 "The Chinese refused to alter their atti-
2 tude, and upon the outbreak of the armed conflict
3 in North China, they moved troops into the prohibi-
4 ted zone in flagrant violation of the truce agree-
5 ment, and finally following upon the murder of an
6 officer and a man belonging to the Japanese landing
7 party, on August 9, they launched an attack upon
8 the International Settlement. While the Japanese
9 authorities were still engaged in negotiation with
10 the representatives of the powers concerned, in a
11 desperate attempt to prevent hostilities with ex-
12 treme patience and forbearance and bearing serious
13 strategical disadvantages, the Chinese began to shell
14 and bomb the Japanese quarter of the Settlement as
15 well as the Japanese garrison defending it, with a
16 view to annihilating the 30,000 Japanese residents
17 as well as the Japanese forces, who were hopelessly
18 outnumbered by the Chinese Army. Thereupon Japan
19 was compelled to take counter measures in self-
20 defense.
21

22 "As is clear from the foregoing accounts,
23 the fundamental cause of the aggravation of the
24 present affair is to be found in the policy of the
25 Nanking Government, who moved large, threatening

1 forces into North China in contravention of the
2 UMEZU-Fo agreement, and also tore up the truce
3 agreement by marching troops on the International
4 Settlement. Japan was compelled to take up arms in
5 self-defense, and she has chosen this opportunity
6 to make the Nanking Government revise their attitude
7 for the sake of the permanent peace of East Asia.
8 Therefore, the present affair can never be settled
9 until the Nanking Government mend their ways, abandon
10 once for all their anti-Japanese policy, and
11 accept Japan's policy of cooperation and collaboration
12 between the two countries.

13 "It should be remembered that one of the
14 important factors underlying Nanking's feverish agi-
15 tations of more recent years against Japan is the
16 action taken by the League of Nations at the time
17 of the Manchurian incident. That body then adopted
18 a resolution framed in utter disregard of the realities
19 of the situation in East Asia, which strongly stimu-
20 lated China in her anti-Japanese policy.

21 "Now the League has once more taken up the
22 appeal of the Nanking Government. Without going
23 fully into the real causes of the present affair,
24 it has concluded, on the basis of false report, that
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1 the bombing of the military works in the strongly
2 fortified Nanking and Canton was an attack upon
3 defenseless cities, and adopted the resolution of
4 September 27 condemning Japan.

5 "Again on October 6 the General Assembly
6 of the League not only concluded that Japan's
7 action constituted a violation of the Anti-war Pact
8 and the Nine-power Treaty but also adopted a resolu-
9 tion which openly calls for assistance to China.
10 Such proceedings on the part of the League only
11 fall in with the cunning scheme of the Nanking
12 Government to exert pressure upon Japan by inviting
13 the intervention of third powers, and serves no
14 useful end but to encourage China in her resolve to
15 oppose Japan to the last and to render a settlement
16 of the affair more difficult than ever.

17 "It must be said that the League of Nations
18 is repeating the error that it committed only a
19 few years ago. Japan's action is a measure of self-
20 defense taken in the face of China's challenge, and
21 obviously there can be no question of violation
22 of the Nine-power Treaty. Moreover, as compared
23 with the time when the treaty was concluded, the
24 situation in East Asia today has been rendered
25 totally different, owing to the infiltration of

1 Communist influence and the changes of internal
2 conditions prevailing in China.

3 "In any case, as regards the Conference
4 that has been convened by the signatories of the
5 Nine-power Treaty, it is a foregone conclusion
6 that a majority of the participants will hold them-
7 selves bound by the above-mentioned resolutions of
8 the League of Nations, and even if Japan took part
9 in its deliberations, no fair and just result could
10 ever be expected therefrom as in the case of the
11 League of Nations meeting at the time of the Man-
12 churian incident. Especially as this conference
13 is to be attended by powers which are not directly
14 interested in East Asia, it is calculated to arouse
15 popular feeling both in Japan and China, thereby
16 complicating the situation still further but contribut-
17 ing nothing towards a solution. The Japanese Govern-
18 ment have therefore decided to decline the invita-
19 tion.

20 "The Japanese nation, rising as one man,
21 is united in the determination to surmount all ob-
22 stacles for the purpose of effecting a speedy settle-
23 ment. Japan is by no means indifferent towards
24 international cooperation. But the Sino-Japanese
25 difficulties can be solved only through direct ne-

1 negotiations between the two powers on whom falls
2 the common burden of responsibility for the stability
3 of East Asia. What is needed is the elimination
4 of Nanking's anti-Japanese policy and the Communist
5 elements which are identified with it, so that there
6 may be established an enduring peace based upon Sino-
7 Japanese unity and cooperation.

8 "Japan never looks upon the Chinese people
9 as an enemy, nor does she harbor any territorial
10 designs. It is rather her sincere wish to witness
11 the material and spiritual advancement of the Chinese
12 nation. And it is her desire to promote cultural
13 and economic cooperation with foreign powers regard-
14 ing China, while at the same time she will respect
15 fully their rights and interests there.

16 "Accordingly, as soon as the powers under-
17 stand the true intention of Japan, and take suitable
18 steps to make the Nanking Government reconsider
19 their attitude and policy, then, and only then, a
20 way will have been paved for their cooperation with
21 Japan respecting the settlement of the present con-
22 flict."
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1 I now offer in evidence defense document
2 414 which is a statement of the Foreign Minister of
3 Japan, Foreign Minister ARITA, delivered on January
4 1, 1939, and omitting the first paragraph.

5 THE PRESIDENT: Brigadier Quilliam.

6 BRIGADIER QUILLIAM: May it please the
7 Tribunal, the prosecution objects to the introduction
8 of this document. It appears to be a New Year's
9 statement issued for publicity purposes by the
10 Foreign Minister. It is a self-serving declaration
11 and is different from the documents admitted earlier
12 today which were documents containing speeches made
13 in the Diet.

14 MR. CUNNINGHAM: I submit that this is a
15 statement of one of the highest ranking public offi-
16 cials in Japan on January 1, 1939, and it certainly
17 reflects the attitude of the government at that time
18 and bears light upon the ~~general issues presented~~ in
19 this case. It emphasizes the perils and the evils
20 which were confronting the previous cabinets and
21 served as a basis for the cabinet action in previous
22 years.

23 THE PRESIDENT: By a majority, the Tribunal
24 overrules the objection and admits the document.

25 CLERK OF THE COURT: Defense document 414

1 will receive exhibit No. 2509.

2 (Whereupon, the document above re-
3 ferred to was marked defense exhibit No.
4 2509 and received in evidence.)

5 MR. CUNNINGHAM: Beginning at paragraph two:

6 "That Japan has as its final aim the estab-
7 lishment of a new order for ensuring a lasting peace
8 in the East Asia is as was already announced by the
9 Government. This new order aims at sweeping off the
10 old idea which regarded the Orient as the colony of
11 the Western Capitalism, and establishing a new
12 equitable relationship based upon the International
13 justice by amending various international principles
14 built upon the old conception. This new order will
15 have a close link among three nations -- Japan,
16 Manchukuo, and China -- as its basis and, by per-
17 fecting a common defense against communism, will
18 cut off the evil roots of subversive intrigues of the
19 Communist Internationale. It will also, by the
20 realization of an economic coalition, promote the
21 welfare of the masses and will create a new culture
22 of the East and, thus, contribute to the progress of
23 human culture of the world at large. With this un-
24 precedented great work before us, we are in a flame
25 with an ardent will of accomplishing it by the

1 united efforts of our people, and we feel a boundless
2 hope for our promising future."

3 I hope that's "hope." I only have "h-o."

4 "At this time, we, the Japanese people,
5 should express a profound feeling of gratitude toward
6 the two anti-Comintern nations, Germany and Italy,
7 who have a clear-cut understanding about our reso-
8 lute stand against communism, and who, with an
9 accurate cognizance of the reality existing in East
10 Asia, take a sincere attitude to join hands with us
11 for the up-building of peace in East Asia. It is
12 needless to say that there still are numerous ob-
13 stacles lying in the way of the establishment of a
14 lasting peace in East Asia. The Chiang Kai-shek
15 regime now removed to the interior of China is re-
16 organizing its defeated armies and is still making
17 active propaganda of continued resistance against
18 Japan. It is obvious that we cannot attain our final
19 aim unless we succeed in annihilating these anti-
20 Japanese forces. It is a specially deplorable fact
21 that some third powers are openly adopting policies
22 of assisting the Chiang Kai-shek regime from diverse
23 motives and, by so doing, are retarding the termina-
24 tion of the hostilities. We need also keep a con-
25 stant vigilance against the meance of Bolshevism

1 which, in taking advantage of the chaotic condition
2 prevailing now in East Asia, is conceiving subvers-
3 ive intrigues. Furthermore, there are Powers who,
4 being too anxious to guard their vested rights and
5 interests in China, ignore realities existing within
6 the zone of military operations and make unreasonable
7 demands, or who are apt to meet the new situation
8 that will arise after the Incident with their old
9 conception inconsistent with the new state of af-
10 fairs. In view of such a situation, we keenly feel
11 the need of making greater efforts than ever for
12 correcting the understanding of the third nations and
13 adjusting international relations.

14 "Taking this occasion of entering upon the
15 third year of the Incident, I wish to offer my con-
16 gratulations for the commencement of the task of
17 creating a new order which aims at establishing a
18 lasting peace in East Asia as well as to pray for its
19 prosperous future. I also wish to express, to-
20 gether with the whole nation, an immutable resolution
21 to carry out at all costs the work for the restoration
22 of East Asia, keeping in mind the importance of the
23 duties imposed upon us for the execution of this
24 great task."

25 I now introduce defense document No. 1078,

1 which is a chronological review, for the convenience
2 of the Tribunal, of the events beginning with the
3 Tatsu Maru Incident and extending over a period of
4 years to show the anti-Japanese attitude of the
5 neighbors whose friendship Japan was attempting to
6 develop along with the Western and Asiatic countries.
7 The events which are described will save much time
8 in presenting intensively what is expressed very
9 briefly in defense document No. 1078.

10 THE PRESIDENT: Brigadier Quilliam.

11 BRIGADIER QUILLIAM: May it please the
12 Tribunal, it is submitted that this document has no
13 probative value. It is a document compiled, as the
14 certificate shows, by the Osaka Chamber of Commerce
15 and Industry. That, of course, is not a government
16 authority, and it may be fairly assumed that the
17 Chamber was concerned with its commercial interests.
18 I should point out that the certificate shows the
19 document was published in English, and, no doubt,
20 that was for the purposes of foreign distribution.

21 It is also submitted, if it please the
22 Tribunal, that the document is irrelevant on the
23 ground that anti-Japanese activities cannot justify
24 anything with which this trial is concerned.

25 THE PRESIDENT: It looks like a summation

1 of evidence that should be given otherwise than by
2 the Osaka Chamber of Commerce. Some of the matters
3 may be in evidence already; I don't know. I haven't
4 read it.

5 MR. CUNNINGHAM: The intention is for the
6 purpose of saving us both time, so I just suggest it
7 for what it might be worth.

8 THE PRESIDENT: The objection is upheld
9 and the document rejected.

10 MR. CUNNINGHAM: I next present defense
11 document No. 329, a statement found in the Japanese
12 Foreign Office, which shows that the anti-Japanese
13 feeling was a kind of disease which came out in
14 epidemic form as the nationalist idea developed in
15 China; that the fever began back in 1919 and during
16 the life of treaties which were intended to protect
17 Japanese interests.

18 THE PRESIDENT: Brigadier Quilliam.

19 BRIGADIER QUILLIAM: May it please the
20 Tribunal, this document was made in the year 1919,
21 and it is submitted that that fact alone makes the
22 evidence too remote to be of any assistance to the
23 Tribunal. It is also submitted that an examination
24 of the contents will show that the document is of
25 no value and is also irrelevant.

1 THE PRESIDENT: Of course, Japanese conduct
2 after 1928 could be explained, if not justified, by
3 Chinese conduct before then.

4 MR. CUNNINGHAM: This is introduced for the
5 purpose of showing a little background which gives
6 the basis, more or less, for the development of the
7 attitude which later caused serious conflict be-
8 tween the two nations.

9 THE PRESIDENT: By a majority, the objection
10 is upheld and the document rejected.
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1 MR. CUNNINGHAM: This is defense document.
2 No. 215 which is now offered. It is an official report
3 of the Japanese Foreign Office which shows that the
4 anti-Japanese feeling was generated among students,
5 reactionaries in Peking. This is also background for
6 material which will later be introduced to show how
7 the anti-Japanese feeling manifested itself as years
8 went on. It also shows the Japanese reluctance even
9 then to arouse any antagonism among the Chinese.

10 THE PRESIDENT: Brigadier Quilliam.

11 BRIGADIER QUILLIAM: May it please the
12 Tribunal, this is a consular report of the year 1919,
13 and the objections to the admission of the previous
14 document apply with equal force to this document.

15 MR. CUNNINGHAM: No comment.

16 THE PRESIDENT: I think this is covered by
17 the preceding ruling, but I am not sure. My colleagues
18 may think differently, so I will take their opinion.

19 By a majority, the objection is upheld and
20 the document rejected.

21 MR. CUNNINGHAM: By defense document No. 214,
22 which is now offered in evidence, we expect to show that
23 the feeling toward Japanese competition was aggravated
24 by the cooperation of business interests of British
25 and American. The purpose of the document is to show

1 that the basis of the feeling was economic primarily.

2 This is a Foreign Office document which office
3 was charged with the regulation diplomatically of such
4 matters.

5 THE PRESIDENT: Brigadier Quilliam.

6 BRIGADIER QUILLIAM: May it please the
7 Tribunal, this document is in precisely the same posi-
8 tion as the preceding two documents. In addition, may
9 I suggest to the Tribunal respectfully that the whole
10 matter of Chinese boycott has been fully covered in
11 the Lytton Report, which was read to the Tribunal on
12 Friday and today. In addition--

13 THE PRESIDENT: This is an allegation of a
14 British and American boycott of Japanese goods, in the
15 opinion of the Chinese. And then it is only a matter
16 of rumor, apparently.

17 It seems to be covered by earlier adverse
18 decisions, Mr. Cunningham.

19 MR. CUNNINGHAM: On the matter which the
20 Brigadier has mentioned about the effect of the Lytton
21 Report on the boycott matter, if the prosecution, of
22 course, wishes to suggest that the Lytton Report
23 adjudicates this matter and decides that the anti-
24 Japanese feeling and boycott was one of the underlying
25 causes of the Sino-Japanese conflict, then there would

1 not be any necessity of offering these documents.

2 THE PRESIDENT: The Tribunal upholds the
3 objection and rejects the document.

4 MR. CUNNINGHAM: Defense document No. 215
5 is now offered.

6 THE PRESIDENT: 217.

7 MR. CUNNINGHAM: 217. Defense document
8 No. 217 is offered as the Japanese official record of
9 the growth of the anti-Japanese feeling, being
10 aggravated by British and American nationals.

11 THE PRESIDENT: Brigadier Quilliam.

12 BRIGADIER QUILLIAM: May it please the
13 Tribunal, this document is objected to on the same
14 grounds as the previous one.

15 THE PRESIDENT: That seems to be covered by
16 the earlier decisions, Mr. Cunningham.

17 The Tribunal upholds the objection and
18 rejects the document.

19 MR. CUNNINGHAM: Now we get into another
20 category of documents.

21 For the purpose of showing that the anti-
22 foreign attitude in China began again in 1927, we offer
23 now defense document No. 431, which is a report of the
24 conditions developing in Hankow on 6 January 1937 --
25 1927. It will be shown that the British adopted measures

1 to protect their interests in the same manner as the
2 Japanese Government protected its nationals.

3 THE PRESIDENT: Brigadier Quilliam.

4 BRIGADIER QUILLIAM: May it please the
5 Tribunal, the prosecution objects to this document
6 being introduced. It is a newspaper article published
7 in 1927 and, it is submitted, has no probative value.
8 It merely reflects the rumors that have been received
9 by a newspaper correspondent. In addition, it appears
10 to be concerned with anti-English activities, and
11 therefore, is irrelevant.

12 THE PRESIDENT: Yes, the matter is between the
13 Chinese and the English the Japanese don't come into.

14 The objection is upheld and the document
15 rejected.

16 MR. CUNNINGHAM: Defense document No. 511
17 is offered to show that negotiation of differences
18 was the policy of the Japanese whenever possible, and
19 the Chinese were expressing the same view. The Hankow
20 Incident of defense document 431 is mentioned here as
21 an example of the force being applied by the Chinese
22 to enforce the anti feeling. This document 511 is
23 offered to show this attitude.

24 THE PRESIDENT: Brigadier Quilliam.

25 BRIGADIER QUILLIAM: May it please the

1 to protect their interests in the same manner as the
2 Japanese Government protected its nationals.

3 THE PRESIDENT: Brigadier Quilliam.

4 BRIGADIER QUILLIAM: May it please the
5 Tribunal, the prosecution objects to this document
6 being introduced. It is a newspaper article published
7 in 1927 and, it is submitted, has no probative value.
8 It merely reflects the rumors that have been received
9 by a newspaper correspondent. In addition, it appears
10 to be concerned with anti-English activities, and
11 therefore is irrelevant.

12 THE PRESIDENT: Yes, the matter between the
13 Chinese and the English the Japanese don't come into.

14 The objection is upheld and the document
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16 MR. CUNNINGHAM: Defense document No. 511
17 is offered to show that negotiation of differences
18 was the policy of the Japanese whenever possible, and
19 the Chinese were expressing the same view. The Hankow
20 Incident of defense document 431 is mentioned here as
21 an example of the force being applied by the Chinese
22 to enforce the anti feeling. This document 511 is
23 offered to show this attitude.

24 THE PRESIDENT: Brigadier Quilliam.

25 BRIGADIER QUILLIAM: May it please the

1 Tribunal, this document was only served this morning,
2 but if the Tribunal has copies the prosecution will
3 make no objection on that ground.

4 We do object to the introduction of the
5 document, if it please your Honor, on the ground that
6 it is merely, like the previous document, a newspaper
7 article of the year 1927, giving the views of a Mr.
8 Sun Ko as related to a newspaper correspondent.

9 MR. CUNNINGHAM: I might suggest that this
10 newspaper article probably comes under different
11 classifications than some of the others on account of
12 the nationality of the reporter and on account of the
13 light which this document might throw on the general
14 situation.

15 THE PRESIDENT: The views of that single
16 individual can hardly help us on any issue, or part
17 of an issue. We have never heard of him before.

18 The objection is upheld and the document
19 rejected.

20 MR. CUNNINGHAM: We now offer defense document
21 No. 735, an article four lines long. I can't say much
22 about that because its contents can be easily seen
23 from one observation.

24 BRIGADIER QUILLIAM: May it please the
25 Tribunal, we object on the same grounds as before.

1 THE PRESIDENT: This shows the Chinese
2 protected the Japanese.

3 The objection is upheld and the document
4 rejected.

5 MR. CUNNINGHAM: Defense document No. 737 is
6 offered to show that the incidents against Japanese
7 interests and nationals happened in different areas
8 and was not a localized matter. The report here
9 offered tells of an attack by fifty Chinese soldiers
10 against a Japanese steamer.

11 BRIGADIER QUILLIAM: May it please the
12 Tribunal, the prosecution objects on the same ground.

13 THE PRESIDENT: The objection is upheld and
14 the document rejected.
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1 MR. CUNNINGHAM: Now I offer defense document
2 No. 428, excerpts from the Tokyo Asahai newspaper of
3 March 26, 1927, reporting the outrages committed by the
4 Chinese armies during the famous Nanking Incident. The
5 Tribunal is no doubt aware that as a result of this
6 incident, British troops were sent to Nanking in order
7 to protect her nationals.

8 THE PRESIDENT: Brigadier Quilliam.

9 BRIGADIER QUILLIAM: May it please the Tri-
10 bunal, the prosecution objects on the same grounds as
11 in the case of the previous documents.

12 MR. CUNNINGHAM: I might say that on an obser-
13 vation of documents of this kind which just throw one
14 element of proof into the case, you cannot paint a pic-
15 ture with one swish of the brush, and it is necessary
16 to submit bit by bit of evidence which paint an ultimate
17 picture.

18 THE PRESIDENT: By a majority the objection is
19 upheld and the document rejected.

20 MR. CUNNINGHAM: We now offer defense document
21 No. 872 which sets out the regulations for punishing
22 persons who failed to comply with the anti-Japanese
23 boycott regulations and an official document of the
24 Japanese Foreign Office.

25 THE PRESIDENT: Brigadier Quilliam.

1 BRIGADIER QUILLIAM: May it please the Tri-
2 bunal, the prosecution objects to this document being
3 introduced. In the first place there is nothing to
4 show its authenticity; nothing to show its source. The
5 fact that this document is held in the Japanese Foreign
6 Office doesn't establish that it is a genuine Chinese
7 document. Further, it is suggested that it is too
8 remote, going back to the year 1928.

9 If it please the Tribunal, it was not my in-
10 tention to suggest to the Tribunal that they were bound
11 by the Lytton Report in connection with boycott matters
12 at all.

13 THE PRESIDENT: I am sure you didn't, Brigadier,
14 but you did suggest we might adopt their conclusions.

15 BRIGADIER QUILLIAM: If it pleases the Tribunal,
16 the point I endeavored to make just a few moments ago,
17 and which I want to make in connection with this docu-
18 ment, is that the introduction of evidence of this
19 kind, in view of the compilation of evidence in the
20 Lytton Report, constitutes unnecessary repetition.

21 The prosecution also objects on the ground
22 that all or any evidence with regard to boycotting is
23 irrelevant.

24 MR. CUNNINGHAM: I suggest that this document
25 is within the age of the Indictment, and it bears upon

1 one of the underlying causes of the difficulties between
2 China and Japan, and it certainly is relevant and cer-
3 tainly should be accepted for what it is worth on the
4 same standards as many of the prosecution's documents.

5 THE PRESIDENT: The boycott may be relevant,
6 but this isn't the way to prove it.

7 The objection is upheld and the document re-
8 jected, by a majority.

9 MR. CUNNINGHAM: We now offer defense document
10 No. 952, being a note from the Japanese Charge d'Affaires
11 in China to the Japanese Foreign Minister dated 24 Novem-
12 ber 1928, which is an official document of the Japanese
13 Foreign Office reporting on the Japanese goods regis-
14 trations act and other anti-Japanese activities in China.

15 THE PRESIDENT: Brigadier Quilliam.

16 BRIGADIER QUILLIAM: May it please the Tri-
17 bunal, this document is different in one respect from
18 the previous document because it is a report to the
19 Foreign Minister from a charge d'affairs, but in all
20 other respects the reasons urged by me with respect to
21 the preceding document apply, it is submitted, to this
22 document.

23 MR. CUNNINGHAM: This document, your Honor,
24 has none of the attributes which other documents which
25 have been rejected have possessed, but this document

1 is an official document of the Foreign Office which
2 reflects the views of the official on the spot to his
3 home government, and certainly bears light on this
4 controversy.

5 THE PRESIDENT: The Tribunal overrules the
6 objection and admits the document.

7 CLERK OF THE COURT: Defense document 952
8 will receive exhibit No. 2510.

9 (Whereupon, the document above re-
10 ferred to was marked defense exhibit No. 2510
11 and received in evidence.)

12 MR. CUNNINGHAM: (Reading) "No. 1264.
13 November 24, 1928.

14 "From: HOKI, Yoshitaka, the Charge d'Affaires
15 ad interim to China.

16 "To: Baron TANAKA, Giichi, the Foreign Min-
17 ister.

18 "Report on Japanese Goods Registration Act,
19 Anti-Japanese Slogans, etc.

20 "Relating to my telegram No. 1590, I am send-
21 ing you for reference one copy each of the following
22 documents hereto attached:

23 "1. The Regulations for Registration of
24 Japanese Goods of Each Store in the Special City in
25 Peiping, made public on the 12th November by the

1 Anti-Japan Society here.

2 "2. Translation of the Regulations for Pun-
3 ishment of 'Chien-min' (T.N. wicked people), distributed
4 by the National Anti-Japan Society.

5 "3. Translation of Anti-Japanese Slogans
6 announced by the Anti-Japan Propaganda Commission on the
7 13th this month. Copies of this note to be sent to:
8 Nanking, Shanghai, Tientsin.

9 "The Regulations for Registration of Japanese
10 Goods of Each Shop in the Special City in Peiping.

11 "Article 1. The present Regulations are
12 enacted according to 'Main Principles of the Plans
13 for Breaking-off of Economic Intercourse with Japan'
14 distributed by the National Anti-Japan Society.

15 "Article 2. The present Regulations shall
16 be applicable to Japanese goods which arrived at each
17 shop in this city prior to 15th November and have not
18 yet been sold yet.

19 "Article 3. Japanese goods which have already
20 arrived and have not yet been sold, shall be divided
21 into two kinds, namely 'Relatively Prohibited Goods'
22 'and 'Absolutely Prohibited Goods.'

23 "(A) Relatively Prohibited Goods:

24 "Japanese goods for culture, transportation
25 and medicine; and various materials produced in Japan

1 which are indispensable for manufacturing in our
2 country and for the livelihood of our people, and for
3 which suitable articles cannot be substituted for the
4 time being.

5 "(B) Absolutely Prohibited Goods:

6 "All goods other than Relatively Prohibited
7 Goods are prohibited without exception.

8 "Article 4. Japanese goods which have al-
9 ready arrived at each shop in this city and have not yet
10 been sold will be registered at the Anti-Japan Society
11 from November 15 to November 30, and two (2) register
12 lists will be made, of which one is to be kept at the
13 Society and the other at each shop for reference.

14 "Article 5. In case unregistered Japanese
15 goods have been found after the term of registration
16 has expired, they will immediately be confiscated.
17 For absolutely prohibited goods, a transit and con-
18 sumption pass shall be valid until the end of this
19 year according to the lunar calendar, but not good at
20 the expiration of the term.

21 "Article 6. Absolutely Prohibited Goods shall
22 be examined at the Investigation Section of the Com-
23 mission for Breaking off Economic Intercourse, where a
24 certificate shall be issued for them. Each merchant
25 shall report himself with the certificate to the

1 'Save-the-Nation Fund' Commission of the Anti-Japan
2 Society and pay the Save-the-Nation Fund at the follow-
3 ing rate ad valorem:"

4 THE PRESIDENT: Need you read--

5 MR. CUNNINGHAM: I will omit--

6 THE PRESIDENT: They range from ten per cent
7 to ninety per cent.

8 MR. CUNNINGHAM: I didn't hear a word--

9 THE PRESIDENT: It must be out of order because
10 I didn't speak low: They range from ten per cent to
11 ninety per cent.

12 MR. CUNNINGHAM: I was going to say I will
13 skip down to the middle of page 5.

14 THE PRESIDENT: Continue the reading of this
15 tomorrow.

16 We will adjourn until half past nine tomorrow
17 morning.

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19 (Whereupon, at 1600, an adjournment
20 was taken until Tuesday, 29 April 1947, at
21 0930.)

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